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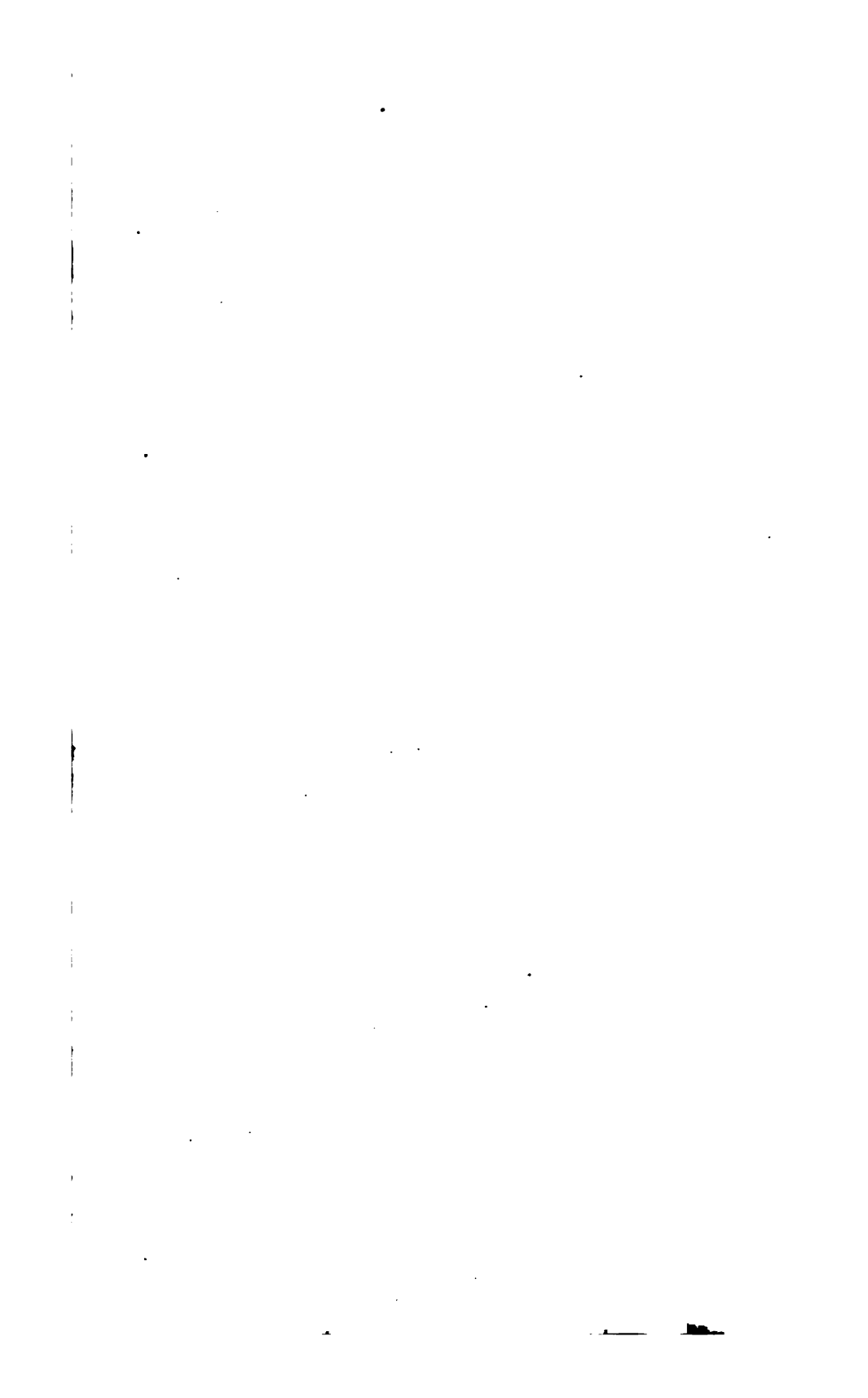
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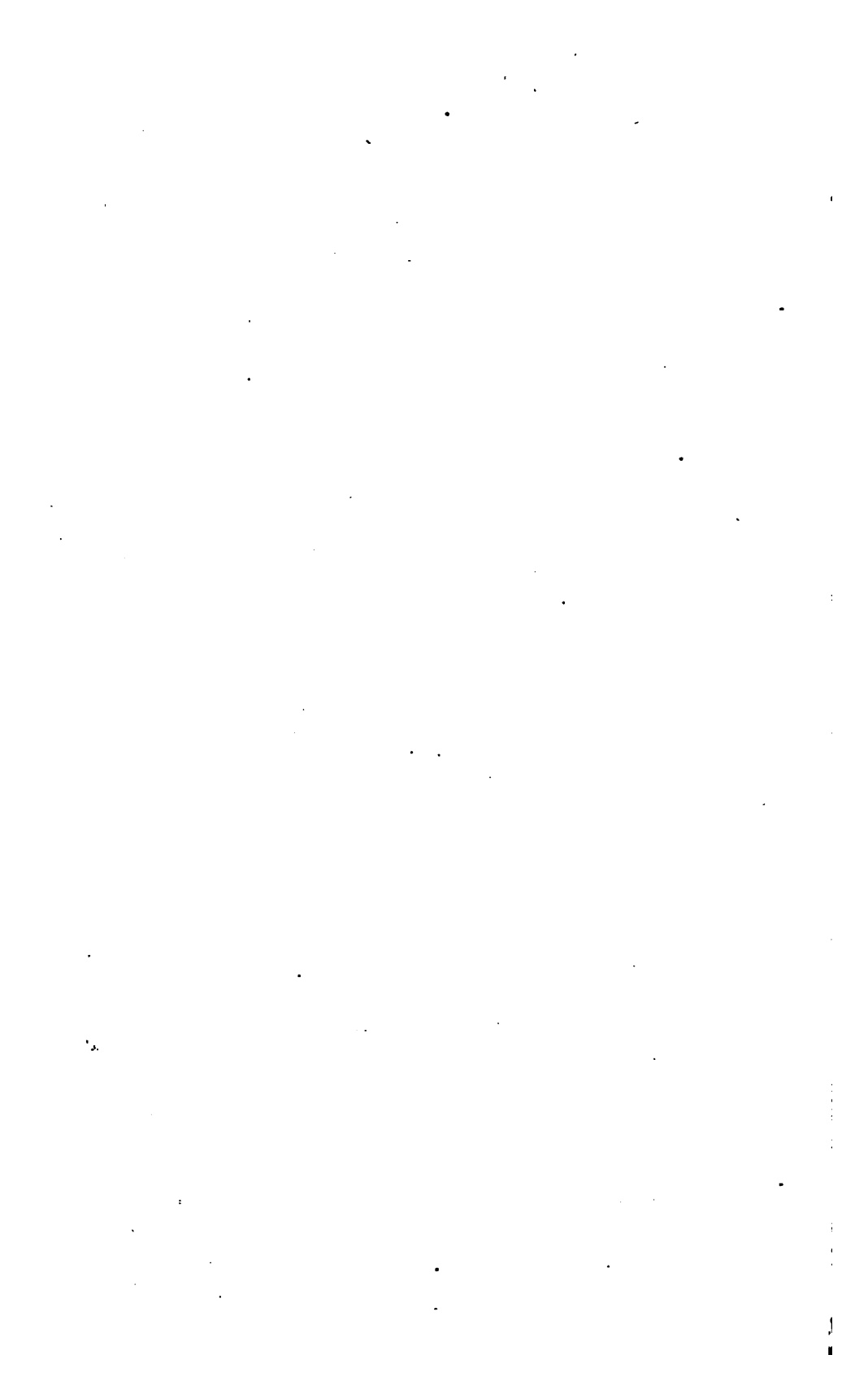
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ACTS

OF

A GENERAL NATURE,

ENACTED, REVISED AND ORDERED TO BE REPRINTED,

AT THE FIRST SESSION

OF THE

TWENTY-NINTH GENERAL ASSEMBLY

OF THE

STATE OF OHIO.

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CONSTITUTION
OF THE
UNITED STATES.

WE, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this CONSTITUTION, for the United States of America.

ARTICLE I.

Sec. 1. ALL legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Sec. 2. *The House of Representatives shall be composed of members chosen every second year, by the people of the several States: and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.*

No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers; which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons.

The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative: and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantations one; Connecticut five; New York six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five, and Georgia three.

When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

The House of Representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

Sec. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes:— The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one third may be chosen every second year: and if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments, until the next meeting of the Legislature, which shall then fill such vacancies.

No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

The Senate shall choose their other officers, and also a President pro tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

Sec. 4. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law, make or alter such regulations, except as to the places of choosing Senators. .

The Congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Sec. 5. Each house shall be the judge of the elections, returns and qualifications, of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds, expel a member.

THE UNITED STATES.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment require secrecy; and the yeas and nays of the members of either house on any question, shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Sec. 6. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same: and for any speech or debate in either house, they shall not be questioned in any other place.

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

Sec. 7. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments on other bills.

Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it; unless the Congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary, (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Sec. 8. The Congress shall have power—

To lay and collect taxes, duties, imposts and excises; to pay the debts and provide for the common defence and general welfare of the United

CONSTITUTION OF

es; but all duties, imposts and excises, shall be uniform throughout the United States:

to borrow money on the credit of the United States:

to regulate commerce with foreign nations, and among the several States, and with the Indian tribes:

to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States:

to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

to provide for the punishment of counterfeiting the securities and currency of the United States:

to establish post offices and post roads:

to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

to constitute tribunals inferior to the Supreme Court:

to define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

to raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

to provide and maintain a navy:

to make rules for the government and regulation of the land and naval forces:

to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions:

to provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by Congress:

to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may by cession of particular States, and the acceptance of Congress, become the seat of Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards and other needful buildings—And

to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Sec. 9. The migration or importation of such persons as any of the States existing, shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless in cases of rebellion or invasion the public safety may require it.

THE UNITED STATES.

No bill of attainder or ex post facto law shall be passed.

No capitation, or other direct tax, shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any State. preference shall be given by any regulation of commerce or revenue the ports of one State over those of another; nor shall vessels bound to, from one State, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of Congress, accept of any present, emolument, office or title of a kind whatever, from any king, prince or foreign state.

Sec. 10. No State shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary in executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State, or with foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II.

Sec. 1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years and, together with the Vice President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person

having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot, one of them for President; and if no person have a majority, then from the five highest on the list, the said house shall, in like manner, choose the President. But in choosing the President, the votes shall be taken by states, the representation from each State having one vote; a quorum for his purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. In every case after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them, by ballot, the Vice President.

The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of President; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been seven years a resident within the United States.

In case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

Sec. 2. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States, when called into the actual service of the United States: he may require the opinion in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appoint-

ments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the Courts of law, or in the Heads of Departments.

The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions, which shall expire at the end of their next session.

Sec. 3. He shall, from time to time, give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient: he may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper: he shall receive ambassadors and other public officers: he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Sec. 4. The President, Vice President, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

ARTICLE III.

Sec. 1. The judicial power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior Courts, shall hold their offices during good behaviour; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Sec. 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State, claiming lands under grants of different States; and between a State or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Sec. 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court.

The Congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV.

Sec. 1. Full faith and credit shall be given in each State to the public acts, records and judicial proceedings of every other State. And the Congress may, by general laws, prescribe the manner in which such acts, records and proceedings, shall be proved, and the effect thereof.

Sec. 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

Sec. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress.

The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.

Sec. 4. The United States shall guaranty to every State in this Union, a republican form of government, and shall protect each of them against invasion; and on application of the Legislature or of the Executive, (when the Legislature cannot be convened) against domestic violence;

ARTICLE V.

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or on the application of the Legislatures of two thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land: and the Judges in every State shall be bound thereby; any thing in the constitution or laws of any State to the contrary notwithstanding.

The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by an oath or affirmation, to support this constitution: but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.

The ratification of the conventions of nine States, shall be sufficient for the establishment of this constitution, between the States so ratifying the same.

DONE IN CONVENTION, by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty seven, and of the Independence of the United States of America the twelfth.

In witness whereof, we have hereunto subscribed our names,

GEORGE WASHINGTON *President*:

ATTEST:

WILLIAM JACKSON, *Secretary*.

The Conventions of a number of the States, having, at the time of their adopting the constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added, Congress, at the session begun and held at the City of New York, on Wednesday, the 4th of March, 1789, proposed to the Legislatures of the several States twelve amendments, ten of which only were adopted. They are the ten first following:

AMENDMENTS TO THE CONSTITUTION.

ARTICLE I.

Congress shall make no law respecting an establishment of Religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II.

A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

ARTICLE III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV.

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the

crime shall have been committed; which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX.

The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others, retained by the people.

ARTICLE X.

The powers not delegated to the United States by the constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII.

The electors shall meet in their respective States, and vote, by ballot, for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves: they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the President of the Senate: the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President, shall be the President, if such num.

ber be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest number, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President: but in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed: and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two thirds of the whole number of Senators; and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

ARTICLE XIII.

If any citizen of the United States shall accept, claim, receive or retain any title of nobility or honor, or shall, without the consent of Congress, accept and retain any present, pension, office or emolument of any kind whatever, from any emperor, king, prince or foreign power, such person shall cease to be a citizen of the United States, and shall be incapable of holding any office of trust or profit under them, or either of them.

[*Note.* The 11th article of the amendments to the Constitution, was proposed at the second session of the third Congress: the 12th article, at the first session of the eighth Congress; and the 13th article, at the second session of the eleventh Congress.]

CONSTITUTION
OF THE
STATE OF OHIO.

WE, the people of the eastern division of the Territory of the United States, northwest of the River Ohio, having the right of admission into the general government, as a member of the Union, consistent with the constitution of the United States, the ordinance of Congress of one thousand seven hundred and eighty seven, and of the law of Congress, entitled "An act to enable the people of the eastern division of the territory of the United States northwest of the river Ohio, to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes; in order to establish justice, promote the welfare and secure the blessings of liberty to ourselves and our posterity, do ordain and establish the following constitution or form of government; and do mutually agree with each other to form ourselves into a free and independent State, by the name of the *State of Ohio*.

ARTICLE I.

Sec. 1. The legislative authority of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives, both to be elected by the people.

Sec. 2. Within one year after the first meeting of the General Assembly, and within every subsequent term of four years, an enumeration of all the white male inhabitants above twenty-one years of age, shall be made in such manner as shall be directed by law. The number of representatives shall, at the several periods of making such enumeration, be fixed by the Legislature and apportioned among the several counties, according to the number of white male inhabitants above twenty one years of age in each, and shall never be less than twenty-four, nor greater than thirty-six, until the number of white male inhabitants above twenty-one years of age shall be twenty-two thousand; and after that event, at such ratio that the whole number of representatives shall never be less than thirty-six, nor exceed seventy-two.

Sec. 3. The representatives shall be chosen annually, by the citizens of each county respectively, on the second Tuesday of October.

Sec. 4. No person shall be a representative, who shall not have attained the age of twenty-five years, and be a citizen of the United States and an inhabitant of this State; shall also have resided within the limits of the county in which he shall be chosen, one year next preceding his election, unless he shall have been absent on the public business of the United States or of this State; and shall have paid a State or county tax.

Sec. 5. The senators shall be chosen biennially, by the qualified voters for representatives; and on their being convened in consequence of the first election, they shall be divided, by lot, from their respective counties or districts, as near as can be, into two classes: the seats of the senators of the first class shall be vacated at the expiration of the first year, and of the second class at the expiration of the second year; so that one half thereof, as near as possible, may be annually chosen forever thereafter.

Sec. 6. The number of senators shall, at the several periods of making the enumeration before mentioned, be fixed by the Legislature, and apportioned among the several counties or districts, to be established by law, according to the number of white male inhabitants of the age of twenty-one years in each, and shall never be less than one third, nor more than one half, of the number of representatives.

Sec. 7. No person shall be a senator who has not arrived at the age of thirty years, and is a citizen of the United States; shall have resided two years in the county or district immediately preceding the election, unless he shall have been absent on the public business of the United States, or of this State; and shall, moreover, have paid a State or county tax.

Sec. 8. The Senate and House of Representatives, when assembled, shall each choose a speaker and its other officers, be judges of the qualifications and elections of its members, and sit upon its own adjournments: two thirds of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and compel the attendance of absent members.

Sec. 9. Each house shall keep a journal of its proceedings, and publish them: the yeas and nays of the members, on any question, shall, at the desire of any two of them, be entered on the journals.

Sec. 10. Any two members of either house shall have liberty to dissent from, and protest against, any act or resolution, which they may think injurious to the public or any individual, and have the reasons of their dissent entered on the journals.

Sec. 11. Each house may determine the rules of its proceedings, punish its members for disorderly behaviour, and with the concurrence of two thirds, expel a member, but not a second time for the same cause; and shall have all other powers necessary for a branch of the Legislature of a free and independent State.

Sec. 12. When vacancies happen in either house, the Governor, or the person exercising the power of the Governor, shall issue writs of election to fill such vacancies.

Sec. 13. Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during the session of the General Assembly, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

Sec. 14. Each house may punish by imprisonment, during their session, any person not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behaviour in their presence: provided such imprisonment shall not, at any one time, exceed twenty-four hours.

Sec. 15. The doors of each house, and of committees of the whole, shall be kept open, except in such cases as in the opinion of the house require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the two houses shall be sitting.

Sec. 16. Bills may originate in either house, but may be altered, amended or rejected by the other.

Sec. 17. Every bill shall be read on three different days in each house, unless in case of urgency, three-fourths of the house where such bill is so depending, shall deem it expedient to dispense with this rule: and every bill having passed both houses, shall be signed by the speakers of their respective houses.

Sec. 18. The style of the laws of this State shall be,
"Be it enacted by the General Assembly of the State of Ohio."

Sec. 19. The Legislature of this State shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and eight, to wit: The Governor, not more than one thousand dollars; the Judges of the Supreme Court, not more than one thousand dollars each; the Presidents of the Courts of Common Pleas, not more than eight hundred dollars each; the Secretary of State, not more than five hundred dollars; the Auditor of public accounts, not more than seven hundred and fifty dollars; the Treasurer, not more than four hundred and fifty dollars: no member of the Legislature shall receive more than two dollars per day, during his attendance on the Legislature, nor more for every twenty-five miles he shall travel in going to, and returning from, the General Assembly.

Sec. 20. No senator or representative shall, during the time for which he shall have been elected, be appointed to any civil office under this State, which shall have been created, or the emoluments of which shall have been increased, during such time.

Sec. 21. No money shall be drawn from the treasury, but in consequence of appropriations made by law.

Sec. 22. An accurate statement of the receipts and expenditures of the public money, shall be attached to, and published with, the laws annually.

Sec. 23. The house of representatives shall have the sole power of impeaching, but a majority of all the members must concur in an impeachment: all impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath or affirmation, to do justice according to law and evidence: no person shall be convicted without the concurrence of two-thirds of all the senators.

Sec. 24. The Governor, and all other civil officers under this State, shall be liable to impeachment for any misdemeanor in office; but judgment in such case shall not extend further than removal from office, and disqualification to hold any office of honor, profit or trust, under this State. The party, whether convicted or acquitted, shall, nevertheless, be liable to indictment, trial, judgment and punishment, according to law.

Sec. 25. The first session of the General Assembly shall commence on the first Tuesday of March next; and forever after, the General Assembly shall meet on the first Monday of December, in every year, and at no other period, unless directed by law, or provided for by this constitution.

Sec. 26. No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, sheriff or collector, member of either house of Congress, or person holding any office under the authority of the United States, or any lucrative office under the authority of this State, (provided that appointments in the militia or justices of the peace, shall not be considered lucrative offices,) shall be eligible as a candidate for, or have a seat in, the General Assembly.

Sec. 27. No person shall be appointed to any office within any county, who shall not have been a citizen and inhabitant therein, one year next before his appointment, if the county shall have been so long erected, but if the county shall not have been so long erected, then within the limits of the county or counties out of which it shall have been taken.

Sec. 28. No person, who heretofore hath been, or hereafter may be, a collector or holder of public moneys, shall have a seat in either house of the General Assembly, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable.

ARTICLE II.

Sec. 1. The supreme executive power of this State shall be vested in a Governor.

Sec. 2. The governor shall be chosen by the electors of the members of the General Assembly, on the second Tuesday of October, at the same places, and in the same manner, that they shall respectively vote for members thereof. The returns of every election for governor, shall be sealed up and transmitted to the seat of government, by the returning officers, directed to the speaker of the senate; who shall open and publish them, in the presence of a majority of the members of each house of the General Assembly: the person having the highest number of votes shall be governor; but if two or more shall be equal and highest in votes, one of them shall be chosen governor by joint ballot of both houses of the General Assembly. Contested elections for governor, shall be determined by both houses of the General Assembly, in such manner as shall be prescribed by law.

Sec. 3. The first governor shall hold his office until the first Monday of December, one thousand eight hundred and five, and until another governor shall be elected and qualified to office; and forever after, the governor shall hold his office for the term of two years, and until another governor shall be elected and qualified; but he shall not be eligible more than six years in any term of eight years. He shall be at least thirty years of age, and have been a citizen of the United States twelve years, and an inhabitant of this State four years next preceding his election.

Sec. 4. He shall, from time to time, give to the General Assembly information of the state of the government, and recommend to their consideration such measures as he shall deem expedient.

Sec. 5. He shall have the power to grant reprieves and pardons after conviction, except in cases of impeachment.

Sec. 6. The governor shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished, during the term for which he shall have been elected.

Sec. 7. He may require information, in writing, from the officers in the executive department, upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Sec. 8. When any officer, the right of whose appointment is, by this constitution, vested in the General Assembly, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the Legislature.

Sec. 9. He may, on extraordinary occasions, convene the General Assembly by proclamation, and shall state to them, when assembled, the purposes for which they shall have been convened.

Sec. 10. He shall be commander-in-chief of the army and navy of this State, and of the militia, except when they shall be called into the service of the United States.

Sec. 11. In case of disagreement between the two houses, with respect to the time of adjournment, the governor shall have the power to adjourn the General Assembly to such time as he thinks proper: *Provided*, It be not a period beyond the annual meeting of the Legislature.

Sec. 12. In case of the death, impeachment, resignation or removal of the governor from office, the speaker of the senate shall exercise the office of governor, until he be acquitted, or another governor shall be duly qualified. In case of the impeachment of the speaker of the Senate, or his death, removal from office, resignation or absence from the State, the speaker of the house of representatives shall succeed to the office, and exercise the duties thereof, until a governor shall be elected and qualified.

Sec. 13. No member of Congress, or person holding any office under the United States, or this State, shall execute the office of governor.

Sec. 14. There shall be a seal of this State, which shall be kept by the governor, and used by him officially, and shall be called "THE GREAT SEAL OF THE STATE OF OHIO."

Sec. 15. All grants and commissions shall be in the name and by the authority of the State of Ohio, sealed with the seal, signed by the governor, and countersigned by the secretary.

Sec. 16. A secretary of state shall be appointed by a joint ballot of the senate and house of representatives, who shall continue in office three years, if he shall so long behave himself well: he shall keep a fair register of all the official acts and proceedings of the governor; and shall, when required, lay the same, and all papers, minutes and vouchers relative thereto, before either branch of the Legislature; and shall perform such other duties as shall be assigned him by law.

ARTICLE III.

Sec. 1. The judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme Court, in Courts of Common Pleas

for each county, in Justices of the Peace, and in such other Courts as the Legislature may, from time to time, establish.

Sec. 2. The Supreme Court shall consist of three judges, any two of whom shall be a quorum. They shall have original and appellate jurisdiction, both in common law and chancery, in such cases as shall be directed by law: *Provided*, That nothing herein contained, shall prevent the General Assembly from adding another judge to the Supreme Court after the term of five years, in which case the judges may divide the State into two circuits, within which, any two of the judges may hold a Court.

Sec. 3. The several Courts of Common Pleas, shall consist of a president and associate judges. The State shall be divided, by law, into three circuits: there shall be appointed in each circuit a president of the Courts, who, during his continuance in office, shall reside therein. There shall be appointed in each county, not more than three, nor less than two associate judges, who, during their continuance in office, shall reside therein. The president and associate judges, in their respective counties, any three of whom shall be a quorum, shall compose the Court of Common Pleas; which Court shall have common law and chancery jurisdiction in all such cases, as shall be directed by law: *Provided*, That nothing herein contained shall be construed to prevent the Legislature from increasing the number of circuits and presidents, after the term of five years.

Sec. 4. The judges of the Supreme Court and Courts of Common Pleas, shall have complete criminal jurisdiction, in such cases, and in such manner, as may be pointed out by law.

Sec. 5. The Court of Common Pleas in each county, shall have jurisdiction of all probate and testamentary matters, granting administration, the appointment of guardians, and such other cases as shall be prescribed by law.

Sec. 6. The judges of the Court of Common Pleas shall, within their respective counties, have the same powers with the judges of the Supreme Court, to issue writs of certiorari to the Justices of the Peace, and to cause their proceedings to be brought before them, and the like right and justice to be done.

Sec. 7. The judges of the Supreme Court shall, by virtue of their offices, be conservators of the peace throughout the State. The presidents of the Court of Common Pleas shall, by virtue of their offices, be conservators of the peace in their respective circuits; and the judges of the Court of Common Pleas shall, by virtue of their offices, be conservators of the peace in their respective counties.

Sec. 8. The judges of the Supreme Court, the presidents and the associate judges of the Courts of Common Pleas, shall be appointed by a joint ballot of both houses of the General Assembly, and shall hold their offices for the term of seven years, if so long they behave well. The judges of the Supreme Court and the presidents of the Courts of Common Pleas, shall, at stated times, receive for their services an adequate compensation, to be fixed by law, which shall not be diminished during their continuance in office; but they shall receive no fees or perquisites of office, nor hold any other office of profit or trust under the authority of this State or the United States.

Sec. 9. Each Court shall appoint its own clerk for the term of seven

years; but no person shall be appointed clerk, except *pro tempore*, who shall not produce to the Court appointing him, a certificate from a majority of the judges of the Supreme Court, that they judge him to be well qualified to execute the duties of the office of clerk to any Court of the same dignity with that for which he offers himself. They shall be removable for breach of good behaviour, at any time, by the judges of the respective Courts.

Sec. 10. The Supreme Court shall be held once a year, in each county; and the Courts of Common Pleas shall be holden in each county, at such times and places as shall be prescribed by law.

Sec. 11. A competent number of Justices of the Peace shall be elected by the qualified electors in each township in the several counties, and shall continue in office three years, whose powers and duties shall, from time to time, be regulated and defined by law.

Sec. 12. The style of all process shall be, "*The State of Ohio*:" all prosecutions shall be carried on in the name and by the authority of the State of Ohio; and all indictments shall conclude against the peace and dignity of the same.

ARTICLE IV.

Sec. 1. In all elections, all white male inhabitants above the age of twenty-one years, having resided in the State one year next preceding the election, and who have paid, or are charged, with a State or county tax, shall enjoy the right of an elector; but no person shall be entitled to vote, except in the county or district in which he shall actually reside, at the time of the election.

Sec. 2. All elections shall be by ballot.

Sec. 3. Electors shall, in all cases except treason, felony or breach of the peace, be privileged from arrest, during their attendance at elections, and in going to, and returning from, the same.

Sec. 4. The Legislature shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

Sec. 5. Nothing contained in this article, shall be so construed as to prevent white male persons above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the State, from having the right of an elector.

ARTICLE V.

Sec. 1. Captains and subalterns in the militia, shall be elected by those persons in their respective company districts, subject to military duty.

Sec. 2. Majors shall be elected by the captains and subalterns of the battalion.

Sec. 3. Colonels shall be elected by the majors, captains and subalterns of the regiment.

Sec. 4. Brigadiers general shall be elected by the commissioned officers of their respective brigades.

Sec. 5. Majors general and quartermasters-general shall be appointed by joint ballot of both houses of the Legislature.

Sec. 6. The governor shall appoint the adjutant general. The majors general shall appoint their aids and other division staff officers. The brigadiers general shall appoint their brigade majors and other brigade staff officers. The commanding officers of regiments shall appoint their adjutants, quartermasters and other regimental staff officers; and the captains and subalterns shall appoint their non-commissioned officers and musicians.

Sec. 7. The captains and subalterns of the artillery and cavalry, shall be elected by the persons enrolled in their respective corps; and the majors and colonels shall be appointed in such manner as shall be directed by law. The colonels shall appoint their regimental staff; and the captains and subalterns their non-commissioned officers and musicians.

ARTICLE VI.

Sec. 1. There shall be elected in each county, one sheriff and one coroner, by the citizens thereof, who are qualified to vote for members of the Assembly: they shall be elected at the time and place of holding elections for members of Assembly: they shall continue in office two years, if they shall so long behave well, and until successors be chosen and duly qualified: *Provided*, That no person shall be eligible as sheriff for a longer term than four years in any term of six years.

Sec. 2. The State treasurer and auditor shall be triennially appointed by a joint ballot of both houses of the Legislature.

Sec. 3. All town and township officers shall be chosen annually, by the inhabitants thereof, duly qualified to vote for members of Assembly, at such time and place as may be directed by law.

Sec. 4. The appointment of all civil officers, not otherwise directed by this constitution, shall be made in such manner as may be directed by law.

ARTICLE VII.

Sec. 1. Every person who shall be chosen or appointed to any office of trust or profit, under the authority of this State, shall, before the entering on the execution thereof, take an oath or affirmation to support the constitution of the United States and of this State, and also an oath of office.

Sec. 2. Any elector, who shall receive any gift or reward for his vote, in meat, drink, money or otherwise, shall suffer such punishment as the laws shall direct; and any person who shall, directly or indirectly, give, promise or bestow, any such reward to be elected, shall thereby be rendered incapable, for two years, to serve in the office for which he was elected, and be subject to such other punishment as shall be directed by law.

Sec. 3. No new county shall be established by the General Assembly, which shall reduce the county or counties, or either of them, from which it shall be taken, to less contents than four hundred square miles; nor shall any county be laid off, of less contents. Every new county, as to the right of suffrage and representation, shall be considered as a part of the county or

counties from which it was taken, until entitled by numbers to the right of representation.

Sec. 4. Chillicothe shall be the seat of government until the year one thousand eight hundred and eight. No money shall be raised until the year one thousand eight hundred and nine, by the Legislature of this State, for the purpose of erecting public buildings for the accommodation of the Legislature.

Sec. 5. That after the year one thousand eight hundred and six, whenever two thirds of the General Assembly shall think it necessary to amend or change this constitution, they shall recommend to the electors, at the next election for members to the General Assembly, to vote for or against a convention; and if it shall appear that a majority of the citizens of the State, voting for representatives, have voted for a convention, the General Assembly shall, at their next session, call a convention, to consist of as many members as there be in the General Assembly; to be chosen in the same manner, at the same place, and by the same electors that choose the General Assembly; who shall meet within three months after the said election, for the purpose of revising, amending or changing the constitution. But no alteration of this constitution shall ever take place, so as to introduce slavery or involuntary servitude into this State.

Sec. 6. That the limits and boundaries of this State be ascertained, it is declared, that they are as hereafter mentioned; that is to say: bounded on the east by the Pennsylvania line, on the south by the Ohio river to the mouth of the Great Miami river, on the west by the line drawn due north from the mouth of the Great Miami aforesaid, and on the north by an east and west line drawn through the southerly extreme of Lake Michigan, running east after intersecting the due north line aforesaid, from the mouth of the Great Miami until it shall intersect Lake Erie or the Territorial line, and thence with the same through Lake Erie to the Pennsylvania line aforesaid: *Provided always*, And it is hereby fully understood and declared by this Convention, that if the southerly bend or extreme of Lake Michigan should extend so far south that a line drawn due east from it should not intersect Lake Erie, or if it should intersect the said Lake Erie, east of the mouth of the Miami river of the Lake, then and in that case, with the assent of the Congress of the United States, the northern boundary of this State shall be established by, and extended to, a direct line running from the southern extremity of Lake Michigan to the most northerly cape of the Miami bay, after intersecting the due north line from the mouth of the Great Miami river as aforesaid, thence north east to the Territorial line, and by the said Territorial line, to the Pennsylvania line.

ARTICLE VIII.

That the general, great and essential principles of liberty and free government may be recognized and forever unalterably established, we declare,

Sec. 1. That all men are born equally free and independent, and have certain natural, inherent and unalienable rights; amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety: and every free

republican government, being founded on their sole authority, and organized for the great purpose of protecting their rights and liberties, and securing their independence; to effect these ends, they have at all times a complete power to alter, reform or abolish their government, whenever they may deem it necessary.

Sec. 2. There shall be neither slavery nor involuntary servitude in this State, otherwise than for the punishment of crimes, whereof the party shall have been duly convicted; nor shall any male person arrived at the age of twenty-one years, or female person arrived at the age of eighteen years, be held to serve any person as a servant under the pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona fide* consideration, received or to be received, for their service, except as before excepted. Nor shall any indenture of any negro or mulatto hereafter made and executed out of the State, or if made in the State where the term of service exceeds one year, be of the least validity, except those given in the case of apprenticeships.

Sec. 3. That all men have a natural and indefeasible right to worship Almighty God, according to the dictates of conscience; that no human authority can in any case whatever, control or interfere with the rights of conscience; that no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent; and that no preference shall ever be given, by law, to any religious society or mode of worship, and no religious test shall be required as a qualification to any office of trust or profit. But religion, morality and knowledge, being essentially necessary to good government and the happiness of mankind, schools and the means of instruction shall forever be encouraged by legislative provision, not inconsistent with the rights of conscience.

Sec. 4. Private property ought and shall ever be held inviolate, but always subservient to the public welfare, provided a compensation in money be made to the owner.

Sec. 5. That the people shall be secure in their persons, houses, papers and possessions, from unwarrantable searches and seizures; and that general warrants whereby an officer may be commanded to search suspected places, without probable evidence of the fact committed, or to seize any person or persons not named, whose offences, are not particularly described, and without oath or affirmation, are dangerous to liberty, and shall not be granted.

Sec. 6. That the printing presses shall be open and free to every citizen who wishes to examine the proceedings of any branch of government, or the conduct of any public officer; and no law shall ever restrain the right thereof. Every citizen has an indisputable right to speak, write or print, upon any subject, as he thinks proper, being liable for the abuse of that liberty. In prosecution for any publication respecting the official conduct of men in a public capacity, or where the matter published is proper for public information, the truth thereof may always be given in evidence; and in all indictments for libels, the jury shall have the right to determine the law and the facts, under the direction of the Court, as in other cases.

Sec. 7. That all Courts shall be open; and every person, for an injury

done him in his lands, goods, person or reputation, shall have remedy by the due course of law, and right and justice administered, without denial or delay.

Sec. 8. That the right of trial by jury shall be inviolate.

Sec. 9. That no power of suspending laws shall be exercised, unless by the Legislature.

Sec. 10. That no person, arrested or confined in jail, shall be treated with unnecessary rigor, or be put to answer any criminal charge, but by presentment, indictment or impeachment.

Sec. 11. That in all criminal prosecutions, the accused hath a right to be heard by himself and his counsel; to demand the nature and cause of the accusation against him; and to have a copy thereof, to meet the witnesses face to face: to have compulsory process for obtaining witnesses in his favor; and in prosecutions by indictment or presentment, a speedy public trial, by an impartial jury of the county or district in which the offence shall have been committed; and shall not be compelled to give evidence against himself, nor shall he be twice put in jeopardy for the same offence.

Sec. 12. That all persons shall be bailable by sufficient sureties, unless for capital offences, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it.

Sec. 13. Excessive bail shall not be required: excessive fines shall not be imposed; nor cruel and unusual punishments inflicted.

Sec. 14. All penalties shall be proportioned to the nature of the offence. No wise Legislature will affix the same punishment to the crime of theft, forgery and the like, which they do to those of murder and treason. When the same undistinguished severity is exerted against all offences, the people are led to forget the real distinction in the crimes themselves, and to commit the most flagrant, with as little compunction as they do the slightest offences. For the same reasons, a multitude of sanguinary laws are both impolitic and unjust: the true design of all punishments being to reform, not to exterminate, mankind.

Sec. 15. The person of a debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditor or creditors, in such manner as shall be prescribed by law.

Sec. 16. No *ex post facto* law, nor any law impairing the validity of contracts, shall ever be made; and no conviction shall work corruption of blood, or forfeiture of estate.

Sec. 17. That no person shall be liable to be transported out of this State, for any offence committed within the State.

Sec. 18. That a frequent recurrence to the fundamental principles of civil government, is absolutely necessary to preserve the blessings of liberty.

Sec. 19. That the people have a right to assemble together, in a peaceable manner, to consult for their common good, to instruct their representatives, and to apply to the Legislature for a redress of grievances.

Sec. 20. That the people have a right to bear arms for the defence of themselves and the State: and as standing armies in time of peace are dan-

gerous to liberty, they shall not be kept up; and that the military shall be kept under strict subordination to the civil power.

Sec. 21. That no person in this State, except such as are employed in the army or navy of the United States, or militia in actual service, shall be subject to corporal punishment under the military law.

Sec. 22. That no soldier, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in the manner prescribed by law.

Sec. 23. That the levying taxes by the poll is grievous and oppressive; therefore, the Legislature shall never levy a poll tax for county or State purposes.

Sec. 24. That no hereditary emoluments, privileges or honors, shall ever be granted or conferred by this State.

Sec. 25. That no law shall be passed to prevent the poor in the several counties and townships within this State, from an equal participation in the schools, academies, colleges and universities within this State, which are endowed, in whole or in part, from the revenue arising from donations made by the United States, for the support of schools and colleges; and the doors of the said schools, academies and universities, shall be open for the reception of scholars, students and teachers, of every grade, without any distinction or preference whatever, contrary to the intent for which said donations were made.

Sec. 26. That laws shall be passed by the Legislature, which shall secure to each and every denomination of religious societies, in each surveyed township which now is, or may hereafter be, formed in the State, an equal participation, according to their number of adherents, of the profits arising from the land granted by Congress for the support of religion, agreeably to the ordinance or act of Congress, making the appropriation.

Sec. 27. That every association of persons, when regularly formed, within this State, and having given themselves a name, may, on application to the Legislature, be entitled to receive letters of incorporation, to enable them to hold estates, real and personal, for the support of their schools, academies, colleges, universities, and for other purposes.

Sec. 28. To guard against the transgressions of the high powers, which we have delegated, we declare, that all powers, not hereby delegated, remain with the people.

SCHEDULE.

Sec. 1. That no evils or inconveniences may arise from the change of a territorial government to a permanent State government, it is declared by this convention, that all rights, suits, actions, prosecutions, claims and contracts, both as it respects individuals and bodies corporate, shall continue, as if no change had taken place in this government.

Sec. 2. All fines, penalties and forfeitures, due and owing to the territory of the United States, northwest of the river Ohio, shall inure to the use of the State. All bonds executed to the governor, or any other officer in his official capacity, in the territory, shall pass over to the governor or the other officers of the State, and their successors in office, for the use of the State, or by him or them to be respectively assigned over to the use of those concerned, as the case may be.

Sec. 3. The governor, secretary and judges, and all other officers under the territorial government, shall continue in the exercise of the duties of their respective departments, until the said officers are superseded under the authority of this constitution.

Sec. 4. All laws, and parts of laws, now in force in this territory, not inconsistent with this constitution, shall continue and remain in full effect, until repealed by the Legislature, except so much of the act, entitled "an act regulating the admission and practice of attorneys and counsellors at law," and of the act made amendatory thereto, as relates to the term of time which the applicant shall have studied law, his residence within the territory, and the term of time which he shall have practiced as an attorney at law, before he can be admitted to the degree of a counsellor at law.

Sec. 5. The governor of the State shall make use of his private seal, until a State seal be procured.

Sec. 6. The president of the convention, shall issue writs of election to the sheriffs of the several counties, requiring them to proceed to the election of a governor, members of the General Assembly, sheriffs and coroners, at the respective election districts in each county, on the second Tuesday of January next; which elections shall be conducted in the manner prescribed by the existing election laws of this territory: and the members of the General Assembly, then elected, shall continue to exercise the duties of their respective offices until the next annual or biennial election thereafter, as prescribed in this constitution, and no longer.

Sec. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution—the county of Hamilton shall be entitled to four senators and eight representatives; the county of Clermont, one senator and two representatives; the county of Adams, one senator and three representatives; the county of Ross, two senators and four representatives; the county of Fairfield, one senator and two representatives; the county of Washington, two senators and three representatives; the county of Belmont, one senator and two representatives; the county of Jefferson, two senators and four representatives; and the county of Trumbull, one senator and two representatives.

Done in Convention at Chillicothe, the twenty-ninth day of November, in the year of our Lord one thousand eight hundred and two, and of the independence of the United States of America, the twenty-seventh.

In testimony whereof, we have hereunto subscribed our names,

EDWARD TIFFIN, *President.*

Attest, THOMAS SCOTT, *Secretary.*

LAWs OF THE UNITED STATES.

AN ACT to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, may be admitted to become a citizen of the United States, or any of them, on the following conditions, and not otherwise:

First. That he shall have declared, on oath or affirmation, before the supreme, superior, district, or circuit court, of some one of the States, or of the territorial districts of the United States, or a circuit or district court of the United States, three years, at least, before his admission, that it was, bona fide, his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, whatever; and particularly, by name, the prince, potentate, state or sovereignty, whereof such alien may, at the time, be a citizen or subject.

Secondly. That he shall, at the time of his application to be admitted, declare, on oath or affirmation, before some one of the courts aforesaid, that he will support the constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state or sovereignty, whatever; and particularly, by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject: which proceedings shall be recorded by the clerk of the court.

Thirdly. That the court admitting such alien, shall be satisfied that he has resided within the United States five years, at least, and within the State or Territory where such court is at the time held, one year at least; and it shall further appear to their satisfaction, that, during that time, he has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same: *Provided,* That the oath of the applicant shall, in no case, be allowed to prove his residence.

Fourthly. That in case the alien, applying to be admitted to citizenship, shall have borne any hereditary title, or been of any of the orders of nobility, in the kingdom or state from which he came, he shall, in addition to the above requisites,

Any free white alien may become a citizen, on conditions mentioned, &c.

Alien to declare, on oath, before one of the courts mentioned, three years before admission, his intention to become a citizen, renounce allegiance to any foreign prince, &c.

At the time of application, to be admitted, the alien to declare, on oath, that he will support the constitution, and that he absolutely renounces all allegiance to any foreign prince. Proceedings to be recorded, &c.

The court admitting the alien, to be satisfied that he has resided five years within the United States, one year in the State, and that he has behaved as a man of good moral character, &c. *Provided,* &c.

In case the alien has borne any title or order of nobility, he must renounce it, &c.

The renunciation of titles to be recorded.

Proviso: no alien whose sovereign is at war with the U. States, to be then admitted, &c.

Aliens who were residing within the limits and under the jurisdiction of the U. States, before the 29th of Jan. 1795, may be admitted on the conditions mentioned.

Proceedings to be recorded by the clerk.

Aliens residing within and under the jurisdiction of the United States, between the 29th of Jan. 1795, and the 18th of June, 1798, may, within two years from the 14th April, 1802, be admitted citizens.

Free white aliens, arriving in the U. States, must, in order to become citizens, make registry, and obtain certificates in the manner prescribed.

make an express renunciation of his title or order of nobility, in the court to which his application shall be made; which renunciation shall be recorded in the said court: *Provided*, That no alien, who shall be a native citizen, denizen or subject, of any country, state or sovereign, with whom the United States shall be at war, at the time of his application, shall be then admitted to be a citizen of the United States: *Provided also*, That any alien who was residing within the limits, and under the jurisdiction, of the United States, before the twenty-ninth day of January, one thousand seven hundred and ninety-five, may be admitted to become a citizen, on due proof made to some one of the courts aforesaid, that he has resided two years, at least, within, and under the jurisdiction, of the United States, and one year at least, immediately preceding his application, within the State or Territory where such court is at the time held; and on his declaring on oath or affirmation, that he will support the constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty whatever; and particularly, by name, the prince, potentate, state or sovereignty, whereof he was before a citizen or subject; and, moreover, on its appearing to the satisfaction of the court, that, during the said term of two years, he has behaved as a man of good moral character, attached to the constitution of the United States, and well disposed to the good order and happiness of the same; and where the alien, applying for admission to citizenship, shall have borne any hereditary title, or been of any of the orders of nobility in the kingdom or state from which he came, on his moreover making in the court an express renunciation of his title or order of nobility, before he shall be entitled to such admission: all of which proceedings, required in this proviso to be performed in the court, shall be recorded by the clerk thereof: *And provided also*, That any alien who was residing within the limits, and under the jurisdiction, of the United States, at any time between the said twenty-ninth day of January, one thousand, seven hundred and ninety-five, and the eighteenth day of June, one thousand seven hundred and ninety-eight, may, within two years after the passing of this act, be admitted to become a citizen, without compliance with the first condition above specified.

Sec. 2. *Provided also, and be it further enacted*, That in addition to the directions aforesaid, all free white persons, being aliens, who may arrive in the United States after the passing of this act, shall, in order to become citizens of the United States, make registry, and obtain certificates, in the following manner, to wit: Every person, desirous of being naturalized, shall, if of the age of twenty-one years, make report of himself; or if under the age of twenty-one years, or held in service, shall be reported by his parent, guardian, master or mistress, to the

clerk of the district court of the district where such alien or aliens shall arrive, or to some other court of record of the United States, or of either of the territorial districts of the same, or of a particular State; and such report shall ascertain the name, birth place, age, nation, and allegiance, of each alien, together with the country whence he or she migrated, and the place of his or her intended settlement: and it shall be the duty of such clerk, on receiving such report, to record the same in his office, and to grant to the person making such report, and to each individual concerned therein, whenever he shall be required, a certificate, under his hand and seal of office, of such report and registry: and for receiving and registering each report of an individual or family, he shall receive fifty cents; and for each certificate, granted pursuant to this act, to an individual or family, fifty cents: and such certificate shall be exhibited to the court by every alien who may arrive in the United States, after the passing of this act, on his application to be naturalized, as evidence of the time of his arrival within the United States.

50 cents to the clerk for registering each report of aliens. Certificate to be exhibited to the court, as evidence of the time of alien's arrival, &c.

Sec. 3. *And whereas*, doubts have arisen whether certain courts of record, in some of the States, are included within the description of district or circuit courts, *Be it further enacted*, That every court of record, in any individual State, having common law jurisdiction, and a seal, and clerk or prothonotary, shall be considered as a district court within the meaning of this act; and every alien, who may have been naturalized in any such court, shall enjoy, from and after the passing of the act, the same rights and privileges, as if he had been naturalized in a district or circuit court of the United States.

Every court of record, in any State, having common law jurisdiction, a seal and clerk, &c. to be considered as a district court, for the purposes of naturalization

Sec. 4. *And be it further enacted*, That the children of persons duly naturalized under any of the laws of the United States, or who, previous to the passing of any law on that subject, by the government of the United States, may have become citizens of any one of the said States, under the laws thereof, being under the age of twenty-one years, at the time of their parent's being so naturalized or admitted to the rights of citizenship, shall, if dwelling in the United States, be considered as citizens of the United States; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens of the United States: *Provided*, that the right of citizenship shall not descend to persons whose fathers have never resided within the United States: *Provided also*, That no person heretofore proscribed by any State, or who has been legally convicted of having joined the army of Great Britain during the late war, shall be admitted a citizen, as aforesaid, without the consent of the Legislature of the State in which such person was proscribed.

The children of persons duly naturalized under the laws of the United States, or under any State law, prior to the passing any law on the subject by the United States being under 21, &c. to be considered as citizens. Children of citizens, born &c.

proviso: the right of citizenship, &c.

Proviso: no person proscribed, or legally convicted of having joined the British army, &c.

All former acts
respecting natu-
ralization, re-
pealed.

Sec. 5. *And be it further enacted,* That all acts heretofore passed respecting naturalization, be, and the same are hereby, repealed.

Approved, April 14, 1802.

AN ACT in addition to an act, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject.

Any free white
alien, resident
within the Uni-
ted States at any
time between the
18th June, 1798,
and the 14th
April, 1802, &c.,
may become a
citizen without
complying with
the condition re-
ferred to.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person, who was residing within the limits, and under the jurisdiction of the United States, at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand, eight hundred and two, and who has continued to reside within the same, may be admitted to become a citizen of the United States, without a compliance with the first condition specified in the first section of the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

Aliens who have
complied with
the first condi-
tion, &c. and
dying before ac-
tual naturaliza-
tion, the widow
and children to
be considered as
citizens, &c.

Sec. 2. *And be it further enacted,* That when any alien, who shall have complied with the first condition specified in the first section of the said original act, and who shall have pursued the directions prescribed in the second section of the said act, may die, before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States; and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.

Approved, March 26, 1804.

AN ACT for the regulation of seamen on board the public and private vessels of the United States.

Continued resi-
dence of 5 years
in the United
States, necessary
to qualify a per-
son to become a
citizen, &c.

Sec. 12. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That no person who shall arrive in the United States, from and after the time when this act shall take effect, shall be admitted to become a citizen of the United States, who shall not, for the continued term of five years, next preceding his admission as aforesaid, have resided within the United States, without being, at any time during the said five years, out of the territory of the United States.

Approved, March 3, 1813.

~~AN~~ ACT supplementary to the acts heretofore passed on the subject of an uniform rule of naturalization.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That persons resident within the United States, or the Territories thereof, on the eighteenth day of June, in the year one thousand eight hundred and twelve, who had, before that day, made a declaration, according to law, of their intentions to become citizens of the United States; or who, by the existing laws of the United States, were, on that day, entitled to become citizens, without making such declaration, may be admitted to become citizens thereof, notwithstanding they shall be alien enemies, at the times, and in the manner, prescribed by the laws heretofore passed on that subject: *Provided,* That nothing herein contained, shall be taken or construed to interfere with, or prevent the apprehension and removal, agreeably to law, of any alien enemy, at any time previous to the actual naturalization of such alien.

Persons resident in the United States, on 18th June, 1812, and, before that day, had made a declaration of their intentions to become citizens, or who, etc. may be admitted, notwithstanding they may be alien enemies

Provido, nothing herein to prevent the apprehension and removal of any alien, &c.

Approved, July 30, 1813.

AN ACT relative to evidence in cases of naturalization.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the certificate of report and registry, required as evidence of the time of arrival in the United States, according to the second section of the act of the fourteenth of April, one thousand eight hundred and two, entitled "an act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on this subject;" and also a certificate from the proper clerk or prothonotary, of the declaration of intention, made before a court of record, and required as the first condition, according to the first section of said act, shall be exhibited by every alien, on his application to be admitted a citizen of the United States, in pursuance of said act, who shall have arrived within the limits, and under the jurisdiction, of the United States, since the eighteenth day of June, one thousand eight hundred and twelve, and shall each be recited at full length, in the record of the court admitting such alien; otherwise, he shall not be deemed to have complied with the conditions requisite for becoming a citizen of the United States: and any pretended admission of an alien, who shall have arrived within the limits, and under the jurisdiction, of the United States, since the eighteenth day of June, one thousand eight hundred and twelve, to be a citizen after the promulgation of this act, without such recital of each certificate at full length, shall be of no validity or effect under the act aforesaid.

Evidence to be exhibited by aliens to become citizens of the United States

Rights of persons
heretofore set-
tled in the Uni-
ted States saved.

Sec. 2. *Provided, and be it enacted,* That nothing herein contained, shall be construed to exclude from admission to citizenship, any free white person who was residing within the limits, and under the jurisdiction, of the United States, at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand eight hundred and two, and who, having continued to reside therein without having made any declaration of intention before a court of record as aforesaid, may be entitled to become a citizen of the United States, according to the act of the twenty-sixth of March, one thousand eight hundred and four, entitled "An act in addition to an act, entitled 'an act to establish a uniform rule of naturalization, and to repeal the act heretofore passed on that subject.'" Whenever any person, without a certificate of such declaration of intention, as aforesaid, shall make application to be admitted a citizen of the United States, it shall be proved to the satisfaction of the court, that the applicant was residing within the limits, and under the jurisdiction, of the United States, before the fourteenth day of April, one thousand eight hundred and two, and has continued to reside within the same, or he shall not be so admitted: and the residence of the applicant within the limits, and under the jurisdiction, of the United States, for at least five years immediately preceding the time of such application, shall be proved by the oath or affirmation of citizens of the United States; which citizens shall be named in the record as witnesses. And such continued residence within the limits, and under the jurisdiction, of the United States, when satisfactorily proved, and the place or places where the applicant has resided, for at least five years as aforesaid, shall be stated and set forth, together with the names of such citizens in the record of the court admitting the applicant: otherwise, the same shall not entitle him to be considered and deemed a citizen of the United States.

Approved, March 22, 1816.

AN ACT in further addition to "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

Conditions on
which an alien,
being a free
white person
and a minor,
may become a
citizen of the
United States.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien, being a free white person and a minor, under the age of twenty-one years, who shall have resided in the United States three years next preceding his arriving at the age of twenty-one years, and who shall have continued to reside therein to the time he may make application to be admitted a citizen thereof, may, after he arrives at the age of twenty-one years, and after he shall have resided five years within the United

States, including the three years of his minority, be admitted a citizen of the United States, without having made the declaration required in the first condition of the first section of the act to which this is in addition, three years previous to his admission: *Provided*, Such alien shall make the declaration required therein, at the time of his or her admission; and shall further declare, on oath, and prove to the satisfaction of the court, that, for three years next preceding, it has been the bona fide intention of such alien to become a citizen of the United States; and shall, in all other respects, comply with the laws in regard to naturalization.

Provided.

Sec. 2. *And be it further enacted*, That no certificates of citizenship, or naturalization, heretofore obtained from any court of record within the United States, shall be deemed invalid, in consequence of an omission to comply with the requisition of the first section of the act, entitled "An act relative to evidence in cases of naturalization," passed the twenty-second day of March, one thousand eight hundred and sixteen.

No certificate of citizenship or naturalization heretofore obtained from any court to be deemed invalid.

Sec. 3. *And be it further enacted*, That the declaration required by the first condition specified in the first section of the act, to which this is in addition, shall, if the same has been bona fide made before the clerks of either of the courts in the said condition named, be as valid as if it had been made before the said courts respectively.

Declaration required by the first section of the former act, to be valid on certain conditions.

Sec. 4. *And be it further enacted*, That a declaration by any alien, being a free white person, of his intended application to be admitted a citizen of the United States, made in the manner and form prescribed in the first condition specified in the first section of the act, to which this in addition, two years before his admission, shall be a sufficient compliance with said condition; any thing in the said act, or any subsequent act, to the contrary notwithstanding.

A declaration of intention made two years before his admission, shall be considered sufficient.

Approved, May 26, 1824.

AN ACT to amend the acts concerning naturalization.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the second section of the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," which was passed on the fourteenth day of April, one thousand eight hundred and two, and the first section of the act, entitled "An act relative to evidence in cases of naturalization," passed on the twenty-second day of March, one thousand eight hundred and sixteen, be, and the same are hereby, repealed.

Second section of the act of 14th April, 1802, and 22d March, 1816, repealed.

Sec. 2. *And be it further enacted*, That any alien, being a

Any alien, being a free white person, who was residing within the limits, of United States, between 14th April, 1802, and 18th June, 1812, to become a citizen.

Proviso.

free white person, who was residing within the limits, and under the jurisdiction, of the United States, between the fourteenth day of April, one thousand eight hundred and two, and the eighteenth day of June, one thousand eight hundred and twelve, and who has continued to reside within the same, may be admitted to become a citizen of the United States, without having made any previous declaration of his intention to become a citizen: *Provided*, That whenever any person, without a certificate of such declaration of intention, shall make application to be admitted a citizen of the United States, it shall be proved to the satisfaction of the court, that the applicant was residing within the limits, and under the jurisdiction, of the United States, before the eighteenth day of June, one thousand eight hundred and twelve, and has continued to reside within the same, or he shall not be so admitted: and the residence of the applicant within the limits, and under the jurisdiction of the United States, for at least five years immediately preceding the time of such application, shall be proved by the oath or affirmation of citizens of the United States; which citizens shall be named in the record as witnesses: and such continued residence within the limits, and under the jurisdiction of the United States, when satisfactorily proved, and the place or places where the applicant has resided, for at least five years, as aforesaid, shall be stated and set forth, together with the names of such citizens, in the record of the court admitting the applicant; otherwise the same shall not entitle him to be considered and deemed a citizen of the United States.

Approved, May 24, 1828.

AN ACT respecting fugitives from justice, and persons escaping from the service of their masters.

The executive of any State or Territory, may, on application, cause fugitives from justice to be arrested and given up to the proper authority.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the executive authority of any State in the Union, or of either of the territories northwest or south of the river Ohio, shall demand any person as a fugitive from justice, of the executive authority of any such State or Territory, to which such person shall have fled, and shall, moreover, produce the copy of an indictment found, or an affidavit made before a magistrate of any State or Territory as aforesaid, charging the person so demanded, with having committed treason, felony or other crime, certified as authentic, by the governor or chief magistrate of the State or Territory from whence the person so charged, fled, it shall be the duty of the executive authority of the State or Territory to which such person shall have fled, cause him or her to be arrested and secured, and notice of

the arrest to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent, when he shall appear: but if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses, incurred in the apprehending, securing and transmitting such fugitive to the State or Territory making such demand, shall be paid by such State or Territory.

Sec. 2. *And be it further enacted*, That any agent, appointed as aforesaid, who shall receive the fugitive into his custody, shall be empowered to transport him or her to the State or Territory from which he or she shall have fled. And if any person or persons shall, by force, set at liberty, or rescue the fugitive from such agent, while transporting, as aforesaid, the person or persons so offending, shall, on conviction thereof, be fined not exceeding five hundred dollars, and be imprisoned not exceeding one year.

Agents appointed to receive fugitives into custody, may transport the same:

Sec. 3. *And be it also enacted*, That when a person, held to labor in any of the United States, or in either of the territories on the northwest or south of the river Ohio, under the laws thereof, shall escape into any other of the said States or Territory, the person to whom such labor or service may be due, his agent or attorney, is hereby empowered to seize or arrest such fugitive from labor, and to take him or her before any judge of the circuit or district courts of the United States, residing, or being within the State, or before any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made; and, upon proof to the satisfaction of such judge or magistrate, either by oral testimony, or affidavit, taken before and certified by a magistrate, of any such State or Territory, that the person so seized or arrested, doth, under the laws of the State or Territory from which he or she fled, owe service or labor to the person claiming him or her, it shall be the duty of such judge or magistrate to give a certificate thereof to such claimant, his agent or attorney, which shall be sufficient warrant for removing the said fugitive from labor, to the State or Territory from which he or she fled.

Fugitives from labor or service, may be apprehended in the State or Territory to which they may have fled.

Sec. 4. *And be it further enacted*, That any person who shall knowingly and willingly obstruct or hinder such claimant, his agent or attorney, in so seizing or arresting such fugitive from labor, or shall rescue such fugitive from such claimant, his agent or attorney, when so arrested, pursuant to the authority herein given or declared; or shall harbor or conceal such person, after notice that he or she was a fugitive from labor, as aforesaid, shall for either of the said offences, forfeit and pay the sum of five hundred dollars: which penalty may be recovered by, and for the benefit of, such claimant, by action of debt, in any court proper to try the same; saving moreover to the person claim-

Persons hindering or obstructing the apprehension of fugitives from labor to be fined.

ing such labor or service, his right of action for, or on account of the said injuries, or either of them.

Approved, February 12, 1793.

AN ACT concerning the mode of surveying the public lands of the United States.

Sec. 2. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That* the boundaries and contents of the several sections, half sections, and quarter sections, of the public lands of the United States, shall be ascertained in conformity with the following principles, any act to the contrary notwithstanding:

The boundaries and contents of the several sections, to be ascertained, &c.

1. All the corners marked in the surveys returned.

The corners of half and quarter sections, not marked on the surveys, &c.

2. The boundary lines actually run and marked in the surveys returned, to be established, &c.

The boundary lines not actually run, to be ascertained, &c.

Each section, the contents whereof have been returned by the surveyor general, to be considered, &c.

1st. All the corners marked in the surveys, returned by the surveyor general, or by the surveyor of the land south of the State of Tennessee, respectively, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the said surveys, shall be placed as nearly as possible equidistant from those two corners which stand on the same line.

2d. The boundary lines, actually run and marked in the surveys returned by the surveyor general, or by the surveyor of the land south of the State of Tennessee, respectively, shall be established as the proper boundary lines of the sections, or subdivisions, for which they were intended, and the length of such lines, as returned by either of the surveyors aforesaid, shall be held and considered as the true length thereof. And the boundary lines, which shall not have been actually run and marked as aforesaid, shall be ascertained, by running straight lines, from the established corners to the opposite corresponding corners; but in those portions of the fractional townships, when no such opposite corresponding corners have been or can be fixed, the said boundary lines shall be ascertained by running, from the established corners, due north and south, or east and west, lines, as the case may be, to the water course, Indian boundary line, or other external boundary of such fractional township.

3d. Each section, or subdivision of section, the contents whereof shall have been, or, by virtue of the first section of this act, shall be, returned by the surveyor general, or by the surveyor of the public lands south of the State of Tennessee, respectively, shall be held and considered as containing the exact quantity expressed in such return or returns: and the half sections, and quarter sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one-half, or the one-fourth part, respectively, of the returned contents of the section of which they make part.

Approved, February 11, 1805.

AN ACT to appropriate lands for the support of Schools in certain townships and fractional townships, not before provided for.

Sec. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,* to make provision for the support of schools, in all townships or fractional townships, for which no land has been heretofore appropriated for that use, in those States in which section number sixteen, or other land equivalent thereto, is by law directed to be reserved for the support of schools in each township, there shall be reserved and appropriated, for the use of schools, in each entire township, or fractional township, for which no land has been heretofore appropriated or granted for that purpose, the following quantities of land, to wit: For each township or fractional township, containing a greater quantity of land than three quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one half, and not more than three quarters of a township, three quarters of a section; for a fractional township, containing a greater quantity of land than one quarter, and not more than one half of a township, one half section; and for a fractional township, containing a greater quantity of land than one entire section, and not more than one quarter of a township, one quarter section of land.

Following quant-
ties of land,
where none is
appropriated for
the use of schools
in certain town-
ships, or frac-
tional town-
ships, to be re-
served for such
purpose

Sec. 2. *And be it further enacted, That* the aforesaid tracts of land shall be selected by the Secretary of the Treasury, out of any unappropriated public land within the land district where the township for which any tract is selected may be situated; and when so selected, shall be held by the same tenure, and upon the same terms, for the support of schools, in such township, as section number sixteen is, or may be held, in the State where such township shall be situated.

Aforesaid tracts
of land to be se-
lected by the Se-
cretary of the
Treasury

Sec. 3. *And be it further enacted, That* there shall be selected, in the manner above mentioned, one section and one quarter section of land, for the support of schools within that tract of country, usually called the French Grant, in the county of Scioto, in the State of Ohio.

A certain section
and quarter sec-
tion, usually call-
ed the French
Grant, in Ohio,
to be selected.

Approved, May 20, 1826.



LAWS OF THE STATE OF OHIO.

AN ACT to provide for election of Electors of President and Vice President of the United States.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the Governor of this State, sixty days previous to the time provided by this act, for the election of Electors of President and Vice President of the United States, shall, by proclamation to be inserted in one of the newspapers printed in each county in this State, where any such paper is printed, give notice of the time of holding such election, and the number of Electors of President and Vice President, there to be chosen.

Governor to issue proclamation to be inserted in a newspaper in each county.

Sec. 2. That the qualified Electors of this State shall, on the first Friday of November next, and on the fifth Friday preceding the first Wednesday in December, in every fourth succeeding year, assemble in their respective townships, at the usual places designated for holding elections, and proceed to elect a number of Electors of President and Vice President of the United States, equal to the number of Senators and Representatives, this State may be entitled to, in the Congress of the United States; which election shall commence and close at the same hours, and be conducted in the same manner, and of which the sheriffs of the respective counties shall give the same notice, as is or may be directed by law, for electing members of the General Assembly of the State; but no Senator or Representative in Congress, or persons holding an office of trust or profit under the United States, or any director of the Bank of the United States, or any of its branches, shall be eligible as an Elector of President and Vice President.

Elections to be held in townships on the fifth Friday preceding the first Monday in December.

Election to be opened and closed, etc. as directed by law for election of members of general assembly.

Who shall not be elected.

Sec. 3. That it shall be the duty of the judges of elections, in each township, forthwith after the close of the elections, to seal up one of the poll books of the election, which shall be carried, within three days after the day of election, to the sheriff of the proper county, who shall attend the two days next succeeding the election, at the seat of justice of his county, for the purpose of receiving poll books as aforesaid; and if the judges of election, or any one of them, shall fail to carry the poll book as aforesaid, they shall forfeit and pay to the State, the sum of one hundred dollars, to be recovered by an action of debt, before any court having cognizance thereof.

Judges of election to seal one poll book and carry it to sheriff, who shall attend at seat of justice to receive poll books. Judges liable to penalty for neglect.

Sec. 4. That the sheriffs, upon receiving the poll books as aforesaid, shall administer an oath or affirmation to each judge, who shall deliver said poll book, that he was a judge of said

Sheriff to administer an oath to each judge.

and shall in-
dorse certificate
upon poll book.

Sheriff to deliver
poll book to sec-
retary of State
under penalty of
\$1000.

Poll books to be
opened by secre-
tary of State and
governor, etc.
Secretary to
make an ab-
stract.

Governor to
make certificates
and transmit to
each Elector e-
lected, and cause
election to be
published.

Votes equal, e-
lection to be de-
cided by lot.

Electors to meet
at seat of gov-
ernment and
perform their
duty.

Persons who
conduct election
liable for neg-
lect.

Electors to give
notice to gover-
nor when met.

election, and shall indorse a certificate of having administered such oath or affirmation on the poll book or packet delivered to him, and shall moreover give the judge, delivering the poll book, a receipt for the same, which receipt the judges shall file with the clerk of the proper county; and the said sheriff, on the receipt of the poll books, shall deliver or cause the same to be delivered to the Secretary of State, at his office, within eleven days after the election, under the penalty of one thousand dollars, to be recovered as is provided in the third section of this act.

Sec. 5. That the said poll books, on the twelfth day after the election, shall be opened by the Secretary of State, in the presence of the Governor, and the aforesaid sheriffs, or such of them as choose to attend; the Secretary shall cause the poll books as they are opened to be read aloud, and shall make out a fair abstract of the names of the persons voted for, and the number of votes given to each, and the Governor shall forthwith make out, for the persons having the greatest number of votes, certificates of their having been duly elected Electors of President and Vice President of the United States, and transmit, by special messenger, the proper certificate to each person so elected, and shall cause the election of Electors to be published in the newspapers printed at the seat of government; but if more than the number of persons to be elected, have the greatest and an equal number of votes, then the election of those having such equal number of votes, shall be determined by lot, to be drawn by the Secretary of State, in the presence of the Governor and sheriffs aforesaid; the Governor shall transmit the proper certificate, and cause publication to be made as aforesaid, and the said poll books shall be kept in the Secretary's office, subject to the inspection of any person, who may choose to examine the same.

Sec. 6. That the Electors who shall be chosen as aforesaid, shall, at twelve o'clock on the day which is or may be directed by the Congress of the United States, meet at the seat of government of this State, and shall then and there perform the duties enjoined upon them, by the constitution and laws of the United States.

Sec. 7. That the several persons who shall be appointed to conduct the election of Electors of President and Vice President of the United States, shall, for neglect of duty, or for improper conduct, be liable to the same penalties and forfeitures as are or may be provided by the law for regulating elections in this State.

Sec. 8. That each Elector of President and Vice President of the United States, shall, before the hour of twelve o'clock, on the day next preceeding the day fixed by the law of Congress, to elect a President and Vice President of the United States, give notice to the Governor, that he is at the seat of government, and ready at the proper time, to perform the duties of

an Elector, and the Governor shall forthwith deliver to the Electors present, a certificate of all the names of the Electors; Governor to deliver to Electors a list of all the names. and if on examination thereof, it should be found, that one or more of said Electors are absent, and shall fail to appear before nine o'clock in the morning of the day of election of President and Vice President as aforesaid, the Electors then present shall immediately proceed to elect by ballot, in the presence of the Governor, a person or persons to fill such vacancy or vacancies, as may have occurred through the non-attendance of one or more of the Electors. Electors present to fill vacancies

Sec. 9. That if more than the number of persons required, to fill the vacancy or vacancies as aforesaid, shall have the greatest and an equal number of votes, then the election of those having such equal and highest number of votes, shall be determined by lot, to be drawn by the Governor, in the presence of the Electors attending; otherwise he or they, to the number required having the greatest number of votes, shall be considered elected to fill such vacancy or vacancies. Equal and highest number of votes, etc. to be determined by lot.

Sec. 10. That immediately after such choice is made in manner aforesaid, the name or names of the person or persons so chosen, shall forthwith be certified to the Governor, by the Electors making such choice, and the Governor shall cause immediate notice in writing to be given to each and every of the Electors chosen to fill such vacancy or vacancies as aforesaid; and the said person or persons so elected and notified, and not the person or persons in whose place he or they shall have been chosen, shall be Electors, and shall meet the other Electors at the same time and place, and then and there discharge all and singular the duties enjoined on him or them, as Electors as aforesaid, by the Constitution and laws of the United States and of this State. Electors' names thus chosen to be certified to Governor who shall notify each Elector chosen to fill vacancy. Electors so chosen and not those originally elected shall be Electors.

Sec. 11. That the sheriffs of the different counties shall each receive for his services performed under this act, the following fees, to wit: for advertising the election of Electors, the sum of fifty cents for each township within his county; for attending at the seat of justice, to receive the township returns, the sum of two dollars; for delivering the poll books to the Secretary of State, at his office, the sum of two dollars for every twenty-five miles travel, to and from the seat of government, the distance to be estimated from their respective seats of justice, on the most usual rout to the seat of government; which fees shall be allowed by the Auditor, on the certificate of the Secretary of State, and paid by the Treasurer of State. Sheriffs' fees for duties under this act. To be paid by Treasurer of State.

Sec. 12. That each and every Elector who shall attend as an Elector at the seat of Government as aforesaid, shall be entitled to receive three dollars for each and every day's attendance, and three dollars for every twenty-five miles travel, of the estimated distance by the most usual rout, from his place of residence to the seat of government, and the like sum for returning; which sum shall be allowed by the Auditor, on the Compensation of Electors, and how paid.

Proviso, in case
of member of the
general assembly.
by.

certificate of the Governor, and paid by the Treasurer, out of any moneys in the Treasury not otherwise appropriated: *Provided, however,* That when a member of the General Assembly shall be appointed an Elector, he shall not be entitled to the compensation herein allowed.

Compensation of
judges and clerks
of election.

Sec. 13. That the judges and clerks of the township elections, held under this act, and the clerks of the different counties, shall be paid the like compensation, out of their respective county treasuries, and in like manner, as they are entitled to for similar services under and by virtue of the act entitled, "An act to regulate elections."

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

February 15, 1820.

AN ACT to regulate elections.

What officers
elected under the
provisions of this
act.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all elections hereafter to be holden for governor, sheriff, coroner, county auditor, county assessor, county commissioners, county treasurer, county recorder, senators and representatives to the general assembly, and representatives to congress, shall be held and conducted in the manner prescribed in this act.

Each township,
except Cincinnati,
to compose an
election district.

Each ward in
Cincinnati to
compose an elec-
tion district.

Sec. 2. That each township in the several counties, except the township of Cincinnati, in the county of Hamilton, shall compose an election district; the elections to be held at such place as the trustees in each township shall direct: and each ward of the city of Cincinnati shall compose an election district; the elections therein to be held at such places as the members of the city council, for their respective wards, shall direct: and in all elections holden under this act, they shall serve as judges, and perform the duties required of township trustees in like cases.

Sheriff to pro-
vide ballot box
for each town-
ship.

Township clerk
to carry box and
copy of this act
to the election.

Sec. 3. That the sheriffs of the several counties shall cause to be provided, at the expense of the county, a ballot box for each township which may be destitute of the same, and cause it to be deposited with the township clerk; whose duty it shall be to preserve the same, for the use of the elections, and carry said ballot box, with a copy of the laws containing this act, to the place of holding elections in his township, when, and as often as it may be necessary, to meet and vote for officers under this act.

Sheriff to give
notice of the
time of holding

Sec. 4. That it shall be the duty of the sheriff, and he is hereby authorized and required, fifteen days at least before the holding of any general election, or ten days before the

holding of any special election, to give public notice by proclamation, throughout his county, of the time of holding such election, and the number of officers at that time to be chosen; one copy of which shall be set up at each of the places where the elections are appointed to be holden, and inserted in some newspaper published in the county, if any be published therein.

the election, and number of officers to be chosen.

Sec. 5. That at all elections to be holden under this act, the poll shall be opened between the hours of eight and ten in the morning, and closed at four in the afternoon of the same day; except in the city of Cincinnati, where the polls shall be opened between the hours of eight and ten in the morning, and closed at six in the afternoon.

Time of opening and closing the polls.

Sec. 6. That at all elections to be holden under this act, the trustees of the several townships shall serve as judges, and the clerk of each township, and such other person as the judges shall choose, shall serve as clerks of the election; who, together with the judges aforesaid, shall receive seventy-five cents per day each, as a compensation for their services, to be paid out of the treasury of their proper county.

Who shall be judges and clerks of the election.

Their compensation.

Sec. 7. That if either of the trustees, common councilmen or clerk of any township, shall fail to attend at the time and place of holding elections, or if either of them should be a candidate, then it shall be the duty of the electors present to choose, viva voce, suitable persons, (as the case may require,) having the qualifications of electors, to act as judges, or clerk, (as the case may be) of the election: and previous to any votes being received, each judge and clerk, not being a trustee or clerk of the township, shall take an oath or affirmation, which may be administered by a justice of the peace, trustee or clerk of the township, in the following form: "You, A. B. do solemnly swear, (or affirm, as the case may be) that you will perform the duties of a judge or clerk of this election, (as the case may be) according to law and the best of your abilities; and that you will studiously endeavor to prevent fraud, deceit or abuse, in conducting the same."

In certain cases the electors shall choose judges and clerks

Persons thus elected to take an oath.

Form of the oath.

Sec. 8. That if any trustee, common councilman, or township clerk, shall refuse to discharge the duties imposed by law, or if those who may be chosen to act in their stead shall refuse to act, the person so offending shall forfeit and pay a sum not exceeding ten dollars, for the use of the county in which he or they may reside; to be recovered, with costs, before any justice of the peace of the township, in an action of debt.

Penalty for refusing to serve as judge or clerk.

Sec. 9. That each elector shall, in full view, deliver to one of the judges of the election, a single ballot or piece of paper, on which shall be written or printed the names of the persons voted for, with a pertinent designation of the office which he or they may be intended to fill; but no elector shall vote, except in the township in which he resides: *Provided*, That nothing in this section contained, shall be so construed as to prevent any elector from voting for State and county officers, in any

Manner of voting.

Elector not to vote out of his township.

Exception.

other township of the county in which he may reside, during the term of his actual employment in the business of his trade, occupation or profession, in such other township.

Judge receiving the ticket to proclaim the name of elector, etc.

Sec. 10. That the judge to whom any ticket shall be delivered, shall, upon the receipt thereof, pronounce with an audible voice the name of the elector; and if no objections be made to him, and the judges be satisfied that the elector is a citizen of the United States, and legally entitled, agreeably to the constitution and laws of this State, to vote at the election, he shall immediately put the ticket in the box, without inspecting the names written thereon; and the clerks of the election shall enter the name of the elector, and number, in the poll books, agreeably to the form pointed out in the twentieth section of this act.

Clerk to enter name in poll book.

Penalty for voting in more than one township or ward.

Sec. 11. That if any person shall vote in more than one township or ward, at the same election, he shall, on conviction thereof, be fined in the sum of fifty dollars, and be imprisoned in the jail of the county for any time not exceeding ten days, at the discretion of the court.

Judges may examine elector on oath, touching his right to vote, and may examine witnesses.

Sec. 12. That where objections are made to an elector, and in all other cases where it is unknown to either of the judges, whether the person offering his ballot has a right to vote at that election, the judges shall have power to examine such person on oath or affirmation, touching his qualifications as an elector; and they may also inquire into the qualifications of such elector, on the oath or affirmation of some disinterested witness or witnesses; which oath or affirmation, either of the judges is hereby authorized to administer.

Poll books to be signed by judges and attested by clerks.

Sec. 13. That at the close of the polls, the poll books shall be signed by the judges, and attested by the clerks; and the names therein contained shall be counted, and the number set down at the foot of the poll books, in the manner hereinafter provided in the form of the poll books.

Manner of examining and disposing of the ballots.

Sec. 14. That after the poll books are signed, in the manner hereinafter contained, in the form of the poll books, the ballot boxes shall be opened, and the tickets or ballots therein contained shall be taken out, one at a time, by one of the judges, who shall read distinctly, while the ticket remains in his hands, the name or names contained therein, and then deliver it to the second judge, who shall examine the same, and pass it to the third judge, who shall string it on a thread, and carefully preserve the same: the same method shall be observed, in respect to each of the tickets in the ballot box, until the number of tickets taken out of the ballot box is equal to the number of names in the poll book.

Clerks to enter the votes as read by the judges.

Sec. 15. That the clerks shall enter in separate columns, under the names of the persons voted for, as hereinafter provided in the form of the poll books, all the votes so as aforesaid read by the judges.

Ballots rolled to-

Sec. 16. That when two or more ballots are found folded or

rolled together, it shall be considered as conclusive evidence of their being fraudulent. either shall be considered fraudulent.

Sec. 17. That if a ballot should be found to contain a greater number of names, for any one office, than the number of persons required to fill such office, it shall be considered fraudulent as to the whole of the names designated to fill such office, Ballots containing too many names fraudulent in part. but no further.

Sec. 18. That a ballot shall not be judged fraudulent for containing a less number of names than are authorized to be inserted. Containing less, not fraudulent.

Sec. 19. That after the examination of the ballots shall be completed, the number of votes for each person shall be enumerated, under the inspection of the judges, and set down as hereinafter provided in the form of the poll books, and be publicly proclaimed to the people present. Votes to be enumerated, and number proclaimed to those present.

Sec. 20. That the following shall be the form of the poll books to be kept by the judges and clerks of elections, held under this act: Form of the poll books.

Poll Book of the Election held in the township of _____,
in the county of _____, on the _____ day of _____,
in the year of our Lord one thousand eight hundred and _____,
A. B., C. D. and E. F. judges, and J. K. and L. M. clerks of
said election, Were severally sworn as the law directs, previous to their entering on the duties of their respective offices

Number and names of Electors.		Number and names of Electors.	
No. 1.	A. B.	No. 3.	E. F.
2.	C. D.	4.	G. H.

It is hereby certified that the number of electors at this election, amounts to _____

A. B. }
C. D. } Judges of Election.
E. F. }

Attest:

J. K. }
L. M. } Clerks.

Names of persons voted for, and for what office, containing the number of votes given for each candidate.

Governor.	Representatives in the State Legislature.		County Commissioners.	Sheriff.	Coroner.	County Auditor.	County Recorder.	County Treasurer.	County Assessor.
	Representatives in Congress.	Senators.							
	C. D. No. of Votes.								
	A. B. No. of Votes.								
	E. F. No. Votes.								
	G. H. No. Votes.								
	I. K. No. Votes.								
	L. M. No. Votes.								
	O. P. No. Votes.								
	Q. R. No. Votes.								
	S. T. No. Votes.								
	U. V. No. Votes.								
	W. X. No. Votes.								
	Y. Z. No. Votes.								
	A. B. No. Votes.								
	C. D. No. Votes.								
	E. F. No. Votes.								
	G. H. No. Votes.								
	I. K. No. Votes.								
	L. M. No. Votes.								
	O. P. No. Votes.								
	P. Q. No. Votes.								
	R. S. No. Votes.								
	T. U. No. Votes.								
	V. W. No. Votes.								
	X. Y. No. Votes.								
	Z. A. No. Votes.								

We do hereby certify that A. B. had votes for Governor; C. D. had votes for Senator in the State Legislature; E. F. had votes for Representative to Congress; G. H. had votes for Senator in the State Legislature; I. K. had votes, &c.

Attest:

J. K. } Clerks.
L. M. }

A. B. } Judges of Election.
C. D. }
E. F. }

Sec. 21. That after canvassing the votes in the manner aforesaid, the judges, before they disperse, shall put under cover one of the poll books, seal the same, and direct it to the clerk of the court of common pleas of that county, where the return is to be made; and the poll books thus sealed and directed, shall be conveyed by one of the judges, to be determined by lot, if they cannot otherwise agree, to the clerk of the county, at his office, within two days from the day of election; and the other poll book, where the same is not otherwise disposed of by this act, shall be deposited with the township clerk, within three days from the day of election, there to remain, for the use of those persons who may choose to inspect the same.

One poll book to be sealed and conveyed to the clerk of common pleas within two days.

The other to the township clerk within three days.

Sec. 22. That at all elections for State and county officers, in any county laid off and organized, between the periods at which the ratio of representation is fixed by law, and before the next subsequent period for apportionment shall arrive, two sets of poll books shall be provided at the expense of each township; the votes given for governor, representative in Congress, senator or representative in the State Legislature, shall, in the manner prescribed, be set down in one set of poll books; and one of the poll books of such set, shall be sealed up by one of the judges of election, and be carried to the old county from which such part of the new county was taken, within the same time, and under the same regulations, specified in the preceding sections, in the same manner as though such new county had not been laid off: in the second set of poll books, the votes for the county officers shall be set down; the judges of the elections shall have one of the poll books of the last mentioned set, sealed up by one of their number, carried to the clerk's office in the new county, in the same manner, within the same time, and under the same regulations before mentioned; the remaining two poll books, one of each set, shall be deposited in the office of the township clerk, for the inspection of any person who may choose to examine the same.

Two sets of poll books to be provided in certain cases.

One set to contain votes for governor, etc.

And returns thereof made to the old county.

The other set to contain votes for county officers, and return to be made to new county.

One of each set to be deposited with township clerk.

Sec. 23. That on the sixth day after the election, (or sooner, in case all the returns shall be made,) the clerk of the county, taking to his assistance two justices of the peace of the proper county, shall proceed to open the several returns which shall have been made to his office, and to make abstracts of the votes in the following manner: The abstracts of votes for governor shall be on one sheet; and, being certified and signed by the justices and clerks, shall be deposited in the clerk's office, and a copy thereof, certified under the official seal of said clerk, shall be indorsed and directed to the speaker of the senate, and forwarded immediately to the seat of government, by mail; and the clerk aforesaid, shall make out another certified copy of the abstract of votes for the governor, as aforesaid, directed to the speaker of the senate, and deliver the same to a member of the general assembly, to the end that the same may be conveyed to the speaker of the senate at the seat of government:

Returns to be opened on sixth day after election, or sooner, by clerk and two justices.

Duplicate abstracts of votes for governor to be made out and forwarded to seat of government, one by mail, the other by a member of general assembly.

and said clerk shall respectively indorse on the envelop or outside of each duplicate, "certificate of the votes for governor," and the name of the county in which said votes are given.

Abstracts to be opened by speaker of the senate in five days after general assembly is organized.

Abstracts of votes for other officers, how made and certified.

A copy thereof to be forwarded to the secretary of State.

Justices and clerk not to decide on the validity of the returns.

Representatives in congress elected biennially by districts.

Additional abstract of votes for representative in congress to be made by clerk and forwarded to the secretary of State by a member of general assembly.

The returns to be opened by governor and secretary of State in presence of senate.

Sec. 24. That the speaker of the senate shall, within five days after the General Assembly shall be organized, open and publish the abstracts of the votes by him received, in conformity to the second section of the second article of the Constitution of this State: and the abstracts of votes for governor, representatives to Congress, senators and representatives to the General Assembly, sheriffs, coroners, county auditors, county treasurer, county recorder, county commissioners and county assessors, shall be made on one sheet; and, being certified and signed, [in the same manner as in case of abstracts of votes for governor,] shall be deposited in the clerk's office; and a copy thereof, certified as aforesaid, shall be immediately inclosed, indorsed and forwarded to the secretary of State: in making the abstracts of votes aforesaid, the justices and clerk shall not decide on the validity of the returns aforesaid, but shall be governed by the number of votes stated in the poll books; but no paper shall be received as a poll book of any township, unless delivered at the clerk's office by one of the judges of the election held in such township.

Sec. 25. That on the second Tuesday of October, in the year eighteen hundred and thirty two, and at every period of two years thereafter, the electors of each congressional district, that now is, or which shall hereafter be laid off and established, shall vote for a suitable person or persons to represent this State in the Congress of the United States for the term of two years, to commence on the fourth day of March next thereafter.

Sec. 26. That the clerk of the court of common pleas, in each county, to whose office a return of votes for a representative to Congress shall be made, shall, in addition to the copy required to be forwarded to the secretary of State by the twenty-fourth section of this act, make out, from the returns in his office, a separate abstract of votes for representative to Congress, which he shall seal and direct to the secretary of State, and indorse on the outside or cover thereof, the following words: "Abstract of votes for a representative in Congress, returned to the clerk's office of," (inserting the name of the county,) and the clerk shall sign his name thereto; and it shall be the duty of the clerk to deliver such abstract to one of the members of the General Assembly, who shall take charge of the same and deliver it to the secretary of State.

Sec. 27. That within ten days after the commencement of the session of the Legislature first to be holden after such election, the governor and secretary of State, in the senate chamber, in the presence of the senate, shall open the returns made to the secretary of State, for representatives to Congress; and if

It shall appear that returns have been received from all the counties, agreeable to the provisions of this act, the governor and secretary shall forthwith proceed to ascertain the number of votes given to the different persons in each congressional district.

able within the first ten days of session of legislature.

Sec. 28. That if such return shall not have been received from all the counties as aforesaid, and abstracts shall have been received by the secretary of State from such delinquent counties, agreeably to the provisions of the twenty-fourth section of this act, the governor and secretary of State shall be governed, so far as it relates to such delinquent counties, by the last mentioned abstracts; and the persons having the highest number of votes shall be considered duly elected.

When the additional abstract is not received, the governor and secretary shall be governed by the abstract forwarded under the provisions of the 24th section if received.

Sec. 29. That if it shall appear from the returns and abstracts aforesaid, that any two or more persons in any of the districts have the highest and an equal number of votes for representative to Congress, the governor and secretary of State shall decide by lot, which of said persons shall be duly elected; and the governor shall give to each person, duly elected, a certificate of his election; which certificate shall be signed by the governor, and sealed with the great seal of the State, and countersigned by the secretary of State.

Two or more having the highest and equal number of votes, election to be decided by lot.

Governor to give a certificate of election under great seal, &c.

Sec. 30. That whenever a vacancy shall happen in the office of representative to Congress, or senator or representative to the General Assembly, in any county or counties in this State, entitled by law to such senator or representative, the governor of the State, for the time being, shall, upon satisfactory information thereof, issue a writ or writs of elections, to the sheriff or sheriffs of said county or counties, entitled by law to such senator or representatives as aforesaid, directing him to hold a special election within such county or counties, on a day specified in such writ or writs, for the purpose of filling such vacancy.

In certain cases of vacancy governor to issue writs of election.

Sec. 31. That the sheriffs aforesaid, shall proceed to give notice of the time and place of holding such election, according to the provisions of this act; and all elections held under the provisions of the preceding sections of this act, shall be held and conducted, and the returns thereof made to the clerk's office of the court of common pleas of the proper county, within the time specified by this act.

Sheriff to give notice, and election to be conducted as in other cases.

Sec. 32. That in all elections for members of Congress, to fill any vacancy under the two preceding sections of this act, the said sheriffs shall, within six days after such election, attend at the seat of justice in their proper counties, and receive from the clerk of the court of common pleas an abstract of the votes given in such counties; and, within twenty days from the day of election, shall transmit the same to the office of the secretary of State, and take his receipt therefor, under the penalty of five hundred dollars, to be recovered before any court having competent jurisdiction thereof, in an action of debt in the name of the county; and it shall be the duty of the county

Duty of sheriff in transmitting returns of special elections.

Penalty for neglect.

treasurer, for the time being, to sue for and recover the penalty aforesaid, for the use of the county.

Time and manner of opening the returns of such special election.

Sec. 33. That the secretary of State, on the twenty-first day from the holding such special election, or sooner, if all the returns shall be received, in the presence of the governor, for the time being, or, in his absence, in the presence of the auditor and treasurer of State, who are hereby required, forthwith, to attend at the office of the secretary of State, on notice given by said secretary, and such of the aforesaid sheriffs as shall think proper to attend, shall open the abstracts, and canvass the votes; and the persons having the greatest number of votes shall be declared duly elected; and the governor, for the time being, shall forthwith transmit to them a certificate of their election, as aforesaid.

In case of the absence or disability of the clerk his deputy may perform his duties under this act. If there be no deputy, the associate judges may discharge the duties.

Sec. 34. That whenever it shall so happen that the clerk of any court of common pleas shall die, be absent, or from any casualty be prevented from opening the returns of votes at any elections, it shall be lawful for his deputy to discharge the duties required of such clerk by law; or if the office of such clerk is not represented by deputy, and such clerk being absent, or in any wise disqualified to serve as aforesaid, it shall be the special duty of the associate judges of the county in which such election was held, to attend immediately at the seat of justice of said county; and they, or a majority of them, shall there receive and proceed to open all the returns of elections for such county, and perform the same duties that are required of the clerk of the court and justices of the peace.

Votes being equal, election determined by lot.

Sec. 35. That if any number of persons greater than the number of offices directed to be filled, shall be equal in votes, the clerk and judges, or justices aforesaid, shall determine by lot, which of the persons shall be duly elected.

Poll books not set aside for want of form.

Sec. 36. That no election shall be set aside for want of form in the poll books, provided they contain the substance.

Duties of the clerks of the different counties, where two or more counties elect members of the General Assembly in common.

Sec. 37. That when two or more counties compose a district, and elect, in common, members of the General Assembly, one of the judges in each election district, shall carry one of the poll books to the office of the clerk in that county in which the election was held, within the time prescribed by the twenty-first section of this act; and the clerk shall forthwith proceed to open the returns from the several election districts, in the same manner, and under the same regulations, that the clerks of the original counties are bound to do by this act, and make out fair abstracts of the votes given within the county, under the seal of the court of common pleas, and attested by the clerk, and transmit the same by a special messenger to the clerk's office of the county named for that purpose, of the counties which elect in common, within ten days after the day of election; who shall receive and open the same, in the same manner as returns of election districts, and incorporate the returns from the new county or counties with the returns of election districts of the

original county, and make out and deliver to the persons elected, certificates of their election.

Sec. 38. That when any sheriff or coroner shall die, or by any other means be incapable to serve as sheriff or coroner, it shall be the duty of the associate judges, or any two of them, of the county where such vacancy may happen, if they, or a majority of them, shall judge that the public interest and the welfare of the county require it, to appoint a day, without delay, on which the qualified electors of said county shall meet in their respective townships or districts, and proceed to the election of a sheriff or coroner, (as the case may be,) in the same manner as is directed in the case of the election of a sheriff or coroner; and the returns of such election shall be made to the clerk, and shall be opened and canvassed in the manner provided in this act for elections at the general election.

When the office of sheriff or coroner becomes vacant, the associate judges may appoint a special election to fill the vacancy.

Sec. 39. That when any new county is laid off or erected, it shall be the duty of the associate judges, or any two of them, within said county, to appoint a day on which the qualified electors shall meet at the temporary seat of justice, giving at least ten days' notice thereof in six of the most public places in said county, of such election, and proceed to elect one sheriff and one coroner, in the same manner as is directed in the foregoing sections of this act: except that the return of the votes given for the different candidates shall be made to the associate judges of the said county, or any two of them, who shall give to the two persons who stand highest in votes for the different offices, a certificate of their respective elections; and, in consequence of such certificate, the governor is hereby authorized to grant commissions to the persons elected, accordingly: and the sheriff or coroner so elected, shall perform the same duties, and shall be liable to the same penalties, as in other cases; and shall continue in office until the next general election, and until another sheriff and coroner shall be elected and qualified, agreeably to law.

Associate judges shall order elections for sheriff and coroner in new counties

Governor to commission persons thus elected.

Term of office.

Sec. 40. That the clerk and justices, or judges, shall declare the person having the highest number of votes for sheriff, coroner, county auditor, county recorder, county treasurer, county commissioners and county assessor; and the person or persons having the highest number of votes for senators or representatives of the General Assembly, duly elected—subject to an appeal to the court of common pleas of the proper county, in case of the contested election of sheriff, coroner, county auditor, county recorder, county treasurer, county commissioners, or county assessor; and to that branch of the Legislature to which any person may be returned, when an election is contested: *Provided*, Notice of such appeal to said court be entered with the clerk thereof within twenty days from the day of election.

Clerk and justices to declare the person having the highest number of votes duly elected, subject to appeal in case of contest.

Provido, as to notice of appeal.

Sec. 41. That the clerk shall make out for the sheriff, coroner, county auditor, county recorder, county commissioners.

Clerk to give a certificate of election.

person without fee. county treasurer, and county assessor, and each of the senators and representatives to the General Assembly, who have the highest number of votes given, a certificate of his election, and shall deliver the same to the person entitled thereto, upon demand, without fee; and he shall also make out for any candidate or elector of his county, an abstract of votes as aforesaid, upon being paid twenty-five cents therefor.

To be paid for an abstract made for a candidate, &c.

Penalty for bringing at elections.

Penalty for imposing on an elector who cannot read.

Person contesting the election of a member of the General Assembly, must give notice in 20 days after the election.

Substance of notice.

Time of service.

Justices shall subpoena witnesses, and certify their testimony to speaker.

None but an elector of the county or district shall contest.

Testimony must conform to the notice.

Copy of notice to be sent to the speaker.

Sec. 42. That if any candidate or elector, shall directly or indirectly, give or promise any meat, drink, or any other reward, with the intention to procure his election, or the election of any candidate, he shall forfeit and pay for every such offence, a sum not exceeding five hundred dollars; and if a candidate, be rendered incapable for two years, to serve in the office for which he was a candidate: and if any person shall furnish an elector who cannot read, with a ticket, informing him that it contains a name or names, different from those which are written or printed thereon, with an intent to induce him to vote contrary to his inclination, he shall forfeit and pay a sum not exceeding one hundred dollars.

Sec. 43. That if any candidate or elector of the proper county, or senatorial district, chooses to contest the validity of an election, or the right of any person proclaimed duly elected to his seat, in the senate or house of representatives, such person shall give notice thereof in writing, to the person whose election he intends to contest, or leave a written notice thereof at the house where such person last resided, within twenty days after the election, expressing the points on which the same will be contested, and the names of two justices of the peace who will officiate at the taking of the depositions, and when and where they will attend to take the same; and such notice shall be served at least ten days before the day pointed out therein, for the taking the depositions: *Provided*, That the time fixed upon for taking such depositions, shall not exceed thirty days from the day of election.

Sec. 44. That the said justices, or either of them, shall have power, and are hereby authorized and required, to issue subpoenas to all persons whose testimony may be required by either of the parties; and the said two justices, when met, shall hear and certify under seal, all testimony relative to such contested election, to the speaker of the branch of the General Assembly where the person whose seat is contested, may be returned, to serve at their next session.

Sec. 45. That no person shall contest the election of any senator or representative, unless he is an elector of that county or district from which the person is returned to serve: no testimony shall be received by the justices, on the part of the person contesting the election, which does not relate to the point specified in the notice; a copy of which notice shall be delivered to the said justices, and by them transmitted to the speaker of that branch of the General Assembly where the contest is to be decided, with the other documents.

Sec. 46. That the method to be pursued in contesting the election of any person declared duly elected sheriff, coroner, county auditor, county recorder, county treasurer, county commissioner, or county assessor, shall in every respect be similar to the method directed as aforesaid, to be pursued, in contesting the election of senator and representatives to the General Assembly, save only that the testimony taken as aforesaid, and all matters relative to such contest, shall be sent to the court of common pleas of the proper county, on or before the second day of the term next ensuing the thirty days allowed, in which to take depositions, by the preceding sections; and the said court of common pleas, at their said first term after thirty days shall have expired, shall hear and determine the contest.

Elections of county officers contested as above, except only that the testimony shall be sent to common pleas.

Contest to be tried first term.

Sec. 47. That the judge who carries the poll book to the clerk of the court of common pleas of the proper county, shall be entitled to receive for the same, ten cents per mile, from the place of election to the seat of justice, to be paid out of the county treasury.

Judges returning poll book to receive 10 cents per mile.

Sec. 48. That if any officer, charged with any duties under this act, shall refuse or neglect to perform the duties required of him by this act, according to the true intent and meaning thereof, he shall, on conviction thereof, before any court having cognizance to that amount, be fined in any sum at the discretion of the court, not exceeding two hundred dollars.

Penalty for neglect of any duty required by this act.

Sec. 49. That all fines and penalties imposed by this act, and not therein otherwise provided for, shall be recovered with costs of suit in an action of debt, or by indictment for the use of the county.

Fines and penalties recovered by debt or indictment.

Sec. 50. That in all cases where the returns from the different counties, composing congressional districts, shall not have been made, or may not be made within the time required by law, or after the certificate of election shall have been forwarded to the person having, without those returns, the highest number of votes, the secretary of State, in the presence of the governor, or in his absence, in the presence of the auditor and treasurer of State, when said returns shall be made, shall open the same, and the governor shall certify the same to the speaker of the house of representatives of the United States.

When any returns of votes for representative in congress shall be received after certificate of election given, the same to be certified to speaker of house of representatives, in congress.

Sec. 51. That the sheriffs of the different counties shall each receive for his services, performed under this act, the following fees, to wit: for advertising the election, the sum of fifty cents for each township within his county; for delivering the abstracts of votes to the Secretary of state at his office, the sum of two dollars for every twenty-five miles travel to and from the seat of government, the distance to be estimated from their respective seats of justice, on the most usual route, to the seat of government; which fees shall be allowed by the auditor, on the certificate of the secretary of State, and paid by the treasurer of State.

Sheriff's fees for duties under this act.

To be paid out of the State treasury.

Sec. 52. That the "Act regulating elections," passed the 7th day of January, 1824; and the act amending the act, enti-

Certain acts re-
pealed:

tled "An act to regulate elections," passed on the 9th day of January, 1827; and "An act providing for the election of sheriffs and coroners in certain cases," passed April 13th, 1803; and the act amendatory thereto, passed January 29th, 1827; and "An act to provide for holding special elections," passed December 27th, 1813; and the second, third, fourth, fifth and sixth sections of an act, entitled "An act to divide the State of Ohio into congressional districts," passed May twenty-third, eighteen hundred and twenty-two; be, and the same are hereby, repealed: *Provided*, That said repeal shall not in any way or manner affect any right which may have accrued under any of said acts.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives

SAMUEL R. MILLER,

Speaker of the Senate

February 18th, 1831.

AN ACT to organize the Judicial Courts.

Supreme court to
consist of four
judges.

Precedence of
judges.

Who shall be
chief judge,

Jurisdiction su-
preme court ori-
ginal.
Concurrent.

Appellate.

What writs su-
preme courts
may issue.

What writs a
single judge of

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the supreme court shall consist of four judges, who shall have precedence according to the dates of their commissions; but in case either of said judges shall be elected for two or more terms in succession, then he shall take precedence according to the date of his commission for the first of said terms: and when the commissions of two or more judges shall be of the same date, they shall have precedence according to their respective ages; and the judge entitled to the precedence over all others, shall be styled chief judge of said court.

Sec. 2. That the supreme court shall have original jurisdiction of all offences, the punishment whereof is capital; and jurisdiction concurrent with the courts of common pleas in all civil cases, both at law and in equity, where the cause or matter in dispute exceeds one thousand dollars; and appellate jurisdiction from the court of common pleas, in all civil cases in which the court of common pleas has original jurisdiction.

Sec. 3. That the supreme court shall have power, on good cause shown, to issue writs of habeas corpus cum causa, certiorari, mandamus, prohibition, procedendo, error, supersedeas, habeas corpus ne exeat, and all other writs not specially provided for by statute, which may be necessary to enforce the due administration of right and justice throughout the State, and for the exercise of its jurisdiction, agreeably to the usages and principles of law; and either of the judges of the supreme court, in vacation, shall, on good cause shown, have power to

grant writs of error, supersedeas and certiorari, and also, to grant writs of habeas corpus, for the purpose of an inquiry into the cause of commitment.

Sec. 4. That the courts of common pleas shall consist of a president and three associate judges; and shall have original jurisdiction in all civil cases, both in law and equity, where the sum or matter in dispute exceeds the jurisdiction of justices of the peace; and appellate jurisdiction from the decisions of justices of the peace in their respective counties, in all civil cases: they shall have power to examine and to take the proof of wills, grant letters testamentary thereon, and to grant letters of administration on intestate's estates, and to hear and determine all causes of probate and testamentary nature; to appoint guardians for minors, idiots and lunatics, and to call such guardians to account: they shall have exclusive cognizance of all crimes, offences and misdemeanors, the punishment whereof is not capital; original and concurrent jurisdiction with the supreme court of all crimes, offences and misdemeanors, the punishment whereof is capital; and shall have the same power to issue remedial and other process, (writs of error and mandamus excepted) as the supreme court has; and the presidents of the courts of common pleas within their circuits, or any associate judge of the court of common pleas, within his county, shall, on good cause shown, have power to allow writs of certiorari, directed to justices of the peace, to cause their proceedings to be brought before such court, in order that right and justice may be done.

Common pleas to consist of a president and three associates.
Jurisdiction of common pleas.
Original.

Appellate.

Probate.

Shall appoint guardians, &c.

Cognizance of crimes.
Exclusive.
Concurrent.

What writs common pleas may issue.

Single judge may allow certiorari.

Sec. 5. That the judges of the supreme court, and presidents and associate judges of the courts of common pleas, before they proceed to execute the duties of their respective offices, shall each take an oath or affirmation to administer justice without respect to persons, and to do equal right to the poor and to the rich, and faithfully and impartially discharge and perform all the duties incumbent on him as a judge, according to the best of his abilities and understanding, agreeably to the constitution and laws of this State; and have the same inducted on his commission.

Judges to be sworn.

The oath.

Oath to be inducted on commission.

Sec. 6. That the supreme court and courts of common pleas, shall appoint clerks for their respective courts, in each county; and each of the said clerks shall, before he enters upon the execution of his office, take an oath or affirmation that he will truly and faithfully enter and record all the orders, decrees, judgments and proceedings of the said court, and faithfully and impartially discharge and perform all the duties of his said office according to the best of his abilities and understanding; and the said clerks shall also severally give bond, with sufficient sureties, (to be approved of by the supreme court and the court of common pleas respectively) to the State of Ohio, in the sum of ten thousand dollars, conditioned that he will truly and faithfully pay over all money that may be by him received

Each court to appoint a clerk in each county.

Clerks to be sworn.

The oath.

Clerks to give bond.

Condition of bond.

Bond to be lodged with county treasurer. Clerks may take depositions, &c.

in his official capacity, and that he will enter and record all the orders, decrees, judgments and proceedings of said court, and faithfully and impartially discharge and perform all the duties of his said office; which bond shall be lodged with the county treasurer: and it shall be lawful for the several clerks within this State to take depositions and administer oaths in all matters appertaining to the business of their respective offices.

Clerks to keep offices at the seat of justice.

Except in cases of new counties.

Associate judges may appoint a clerk pro temp.

Sec. 7. That each and every clerk of the respective courts, shall keep his office at the seat of justice in his proper county; and every clerk failing so to do, shall be deemed and taken to have resigned the same: *Provided*, That the clerks of new counties shall not be required so to keep his office, in less than six months after the courts shall have been held at the place fixed for the permanent seat of justice; and in case a vacancy shall happen in the office of clerk during the vacation, the associate judges may appoint a clerk, pro tempore.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 7, 1831.

AN ACT to regulate the practice of the Judicial Courts.

Writs and process, how tested.

To be under seal.

Style of process.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all writs and process issuing from the supreme court, shall bear test by the chief judge thereof; and all writs and process issuing from the courts of common pleas, shall bear test by the president of said courts; which said writs and process shall be under the seal of the court from whence they issue, and be signed by the clerk thereof: and all writs and process shall run in the style of "The State of Ohio, county, ss."; and shall be dated of the day on which the same may issue.

Clerks to issue subpoenas.

Who may serve the same.

Verification of service.

Sec. 2. That the clerks of the several courts shall, on application of any person having a cause, or any matter, pending in court, issue subpoenas for witnesses, inserting all the names required by the applicant in one subpoena; which subpoena, any disinterested person may serve and return: *Provided*, That the truth of such service and return, shall be verified by the oath of the person making the same.

Precipe for a writ to be filed.

Cause of action, &c. to be indorsed on writ.

Sec. 3. That any person demanding a writ, shall file a precipe with the clerk of the court, who shall thereupon make out and deliver such writ as may be required; and in all cases of mesne process, he shall indorse thereon the cause of action, and the amount appearing to be due or sworn to, as the same may be stated in the precipe or affidavit, to hold the defendant to bail.

Sec. 4. That in all cases where the plaintiff is a non-resident of the county in which the action may be brought, the writ of summons, capias ad respondendum, or other mesne process, shall be indorsed prior to the delivery of the same to the proper officer, by some responsible freeholder resident in the county; who, by such indorsement, shall be held and bound for the payment of all the costs that may be adjudged against the plaintiff, both in the court of common pleas and supreme court.

Non-resident plaintiff to procure writ to be indorsed as security for costs.

Sec. 5. That it shall be lawful, after final judgment rendered in any such case, for the court, on motion of the defendant, his executors or administrators, or any other person having a right to such costs, or any part thereof, (such defendant or other person having previously given ten days' notice of such motion,) to enter up judgment in the name of such defendant, his executors or administrators, against such surety, his executors or administrators, for the amount of costs adjudged against the plaintiff, or so much thereof as may be due and unpaid; on which judgment execution may be issued, for the use and benefit of the persons entitled to such costs, as in other cases.

Judgment to be rendered against security for costs on motion.

Ten days notice of such motion to be given.

Execution thereon, as in other cases.

Sec. 6. That the plaintiff shall be entitled to have special bail in all actions brought on any covenant, bond, sealed bill, promissory note, due bill, bill of exchange, or article of agreement, for the payment of any sum of money certain, and in all actions brought on other contracts, by which the sum due, or damages sustained, shall appear to be uncertain, but which the plaintiff, or his agent, shall swear, by affidavit, to be filed in the cause, are not less than one hundred dollars; and the plaintiff shall have special bail in all other cases in which the court, in term time, or any judge thereof, in vacation, shall, from the particular circumstances, order such special bail to be given.

In what cases plaintiff shall be entitled to special bail.

Sec. 7. That if two or more persons are bound, jointly or jointly and severally, by any bond or writing obligatory, bill of exchange, promissory note, or other contract, and the persons so bound shall reside in different counties, it shall be lawful for the plaintiff, in any action to be brought on any such bond, writing obligatory, bill of exchange, promissory note, or other contract, to file with the clerk of the court of the county in which either of the persons so bound shall reside, and against whom a writ of summons or capias ad respondendum shall have been directed, a precept, directing that a summons or capias ad respondendum be issued to the sheriff or coroner of the county or counties, in which such other person or persons, so bound as aforesaid, may reside, or may be found, who shall issue the said writ or writs as by said precept shall be directed: and the sheriff or other officer shall execute and return the same, in the same manner, and under the same penalties, as if the capias ad respondendum or summons had issued from the clerk of the court of his county; and the court to whom such writ is returned, shall proceed in the same manner thereon, as

Suits against persons jointly or jointly and severally bound, may be brought in the county where either obligor resides, and process issued to the other county or counties, which shall be executed and returned as in other cases.

if it had been returned by the sheriff of their own proper county.

Recognizances returned to common pleas, by justices, to be entered in minute book, and proceeded on as if original in said court.

Sec. 8. That whenever any recognizance shall be returned to any court of common pleas, by a justice of the peace, or other officer authorized to take such recognizance, a memorandum thereof shall be entered in the minute book of the court; whereupon the same shall be considered as of record in such court, and proceeded on by process issuing out of said court, in the same manner as if such recognizance had been entered into before such court: and the same recognizance shall be made out, and recorded in full, in the book of records of said court, in the same manner as recognizances taken in such court.

When special bail shall be put in.

Sec. 9. That special bail shall be filed on the return day of the *capias ad respondendum*, or on the succeeding day.

If not put in, how plaintiff may proceed.

Sec. 10. That if special bail be not put in and perfected in due time, the plaintiff may proceed on the bail bond, or rule the sheriff to bring in the body of the defendant.

If the officer executing a *capias*, fail to take bail, or bail be insufficient, he may be ruled to bring in the body; and on failure, may be amerced.

Sec. 11. That if upon *capias ad respondendum*, the sheriff, or other officer, return, "I have taken the body," or, "I have taken the bodies," (as the case may be,) and shall not return bail, and a copy of the bail bond; or if the bail taken by such sheriff or officer, shall, in the opinion of the court, be insufficient; or the defendant shall fail to appear and give special bail within the time above specified: the court, on motion, shall rule such sheriff or officer to bring in the body of the defendant, within the term; and if he fail so to do, the sheriff or other officer shall be amerced by the court, in any sum not exceeding the plaintiff's debt or demand, with costs: which amercement shall have the same force and effect as a judgment: *Provided, nevertheless*, If such sheriff or other officer shall cause special bail to be put in, and justified, if justification be required, during the same term, he shall be excused from bringing in the body, and no amercement shall be entered against him on the said rule.

Excused on putting in special bail.

Defendant brought in by sheriff on rule, to be committed.

Sec. 12. That if any sheriff, when ruled so to do, shall bring in the body of the defendant, such defendant shall be committed; and upon entry of such committitur, the plaintiff may proceed in the action, and declare against the defendant as in custody.

Sheriff and his bail may put in special bail without consent of defendant.

Sec. 13. That the sheriff, in order to save himself, may put in special bail for the defendant, without his consent; and the bail of such sheriff may do the same, for their indemnity.

Exceptions to bail, when to be taken.

Sec. 14. That if special bail be entered during the first or second days of the term to which process is returnable, exception shall be taken, and entered thereto in the clerk's docket, during the said term, of which exception a written notice shall

Notice of exception to be served.

be served on the defendant, or his attorney of record; and, in such case, the defendant shall procure his bail to justify, in eight days exclusive, after such exception and notice as aforesaid, or add other bail, who shall justify within said eight days: and when bail is filed on the first or second day of the term, an

In what time bail shall justify, &c.

exception entered after the expiration of the said term, shall be of no validity.

Sec. 15. That two days' notice of the time of justification of bail, or of putting in new or additional bail and justification thereof, shall be given by the defendant or his attorney, to the plaintiff or his attorney, exclusive of the day it is given; and if, Sunday intervene, three days' notice shall be given. Two days notice of the justification, or putting in new bail, to be given.

Sec. 16. That if the bail do not justify at the time appointed, they shall be considered out of court; and when they do justify, and are allowed, an order of such allowance shall be drawn, and a copy thereof served on the plaintiff or his attorney. Bail not justifying in time, out of court; justifying, copy of order to be served on plaintiff.

Sec. 17. That the recognizance of special bail shall be to the effect following:

{ A. B. }
vs. { }
{ C. D. } In debt or case, [as the case may be.]

Form of recognizance of special bail.

THE STATE OF OHIO, County, to wit:

Be it remembered. That on the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, G. H. and E. F., of the county of _____, personally appeared before J. K., one of the judges of the supreme court of the State of Ohio, or one of the judges of the court of common pleas, in and for the county of _____, or clerk of the supreme court of the State of Ohio, or clerk of the court of common pleas, in and for the county of _____, (as the case may be), and severally acknowledge themselves to owe unto A. B. the sum of _____ (double the sum indorsed on the writ,) to be levied on their several goods and chattels, lands, tenements and estates; upon condition that if the defendant, C. D., shall be condemned in this action, at the suit of A. B., the plaintiff, he shall pay the costs and condemnation of the court, or be rendered, or render himself, into the custody of the sheriff of said county, for the same; or, in case of failure, that the said G. H. and E. F. will pay the costs and condemnation for him.

Taken and acknowledged, the day and year above written, before me, J. K.

And that on acknowledging the aforesaid recognizance, the bail piece shall be to the effect following, to wit:

STATE OF OHIO: Supreme court (or court of common pleas,) of the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, C. D. _____ of the county of _____, is delivered to bail on a cepi corpus, unto G. H. and E. F. of the said county, at the suit of A. B., in a plea of debt or trespass, on the case, [as the case may be.] Form of bail piece.

Attest: S. W., Clerk.
Sec. 18. That in actions which are, or shall be instituted in.

How special bail may justify in supreme court.

the supreme court of this State, special bail may justify by affidavit in said court, or before one of the judges or clerks thereof, either in term time or in vacation; and such affidavit shall set forth, that the bail is a resident of the county, and that he is worth so much, (mentioning the sum he is bail for,) after all his debts are paid.

How special bail may justify in common pleas.

Sec. 19. That in actions which are, or shall be instituted in any of the courts of common pleas in this State, special bail may justify by affidavit in the said court, or before one of the judges or clerks thereof, in term time or in vacation; which affidavit shall set forth, that the bail is resident of the county, and that he is worth so much, (mentioning the sum he is bail for,) after all his debts are paid.

If special bail be not put in, plaintiff may have assignment of bail bond.

Sec. 20. That if special bail be not put in, and perfected in due time, the plaintiff, if he be satisfied with the bail taken by the sheriff or other officer, may take an assignment of the bail bond, in the words or to the effect following: I, the within named O. P. do hereby assign and set over the within bond, to the within named A. B. plaintiff. Witness my hand and seal, the day of in the year of our Lord one thousand eight hundred and

Form of the assignment.

Its effect.

Signed, sealed and delivered, in the presence of E. F. and G. H. O. P. (Seal.) And this shall be deemed a sufficient assignment in law, to sustain an action on such bail bond, in the name of the assignee.

Person imprisoned on mesne process, when discharged.

Sec. 21. That whenever any person shall be imprisoned on mesne process, and remain in prison, and shall not be charged in execution within ten days after judgment rendered against him, he shall be discharged.

Proceedings on bond, when stayed.

Sec. 22. That the proceedings on the bail bond may be set aside, if irregular or stayed; if regular, upon terms, in order that a trial may be had in the original action.

The conditions on which proceedings on bail bond may be stayed.

Sec. 23. That when the plaintiff in the original action has not lost a trial, for want of special bail being filed in due time, the court or judge may stay the proceedings on the bail bond, upon putting in and perfecting special bail, paying the costs incurred by the assignment and prosecution of the bail bond, receiving a declaration in the original action, pleading issuable, and taking short notice of trial.

Conditions on which proceedings may be stayed, when a trial has been lost for want of special bail.

Sec. 24. That when the plaintiff has lost a trial in the original action, for want of special bail being filed in due time, it shall be the duty of the court, before the proceedings be stayed on the bail bond, further to require that the bail consent that judgment be entered against them, on the bail bond, for the plaintiff's security; and in such case, if the defendant fail in the original action, the bail shall be liable to immediate execution, and shall not discharge him or themselves by a render of the principal.

In what case

Sec. 25. That after the expiration of the term in which the

plaintiff might have had judgment, in the original action, if bail had been filed in due time, the proceedings shall not be stayed on the bail bond without consent of the plaintiff.

proceedings not stayed without consent of plaintiff.

Sec. 26. That whenever the defendant neglects putting in special bail in due time, by which the bail bond becomes forfeited, the notice, in case the party means to put in special bail, in order to stay proceedings on the bail bond, shall be, that he will put in and perfect special bail in open court, on such a day, (specifying the day;) and in that case the plaintiff may oppose the bail in court, without its being a waiver of the bail bond.

What notice to be given of putting in special bail to stay proceedings on forfeited bail bond.

Sec. 27. That every court and judge shall take the fact to be true as sworn to in the affidavit, to hold the party to bail, without going into the merits.

Affidavit to hold to bail to be taken as true.

Sec. 28. That on the return of the *capias ad respondendum*, the defendant may appear in court, and render himself in discharge of his appearance bail; and upon such render, the appearance bail shall be discharged: and in such case, if the defendant do not immediately put in and justify special bail, he shall be committed, and upon the entry of such committitur, the plaintiff may proceed in the action, and declare against him as in custody.

On return of *capias* defendant may render himself in discharge of his appearance bail, and if special bail be not put in, shall be committed.

Sec. 29. That subsequent to the return of the *capias ad respondendum*, the defendant may render himself or be rendered in discharge of his special bail, either before or after judgment: *Provided*, That such render be made at or before the appearance day of the first *scire facias* against the bail, returned "*scire feci*," or of the second *scire facias* returned "*nihil*," or of the *capias ad respondendum*, or summons in an action of debt against the bail on his recognizance, returned, served, and not after; but in either case the bail shall pay the costs of the said suit, and judgment for the same shall be rendered against him accordingly: *Provided always*, That in either of the above writs against the bail on his recognizance, there shall be at least fifteen days between the service and the return thereof.

Defendant may render himself in discharge of his special bail at any time before the appearance day in the action against such bail.

Sec. 30. That the court or judge before whom the render is made, shall make an entry or minute of such render and commitment; and thereupon the defendant shall be committed to the custody of the sheriff or jailor, attending the said court or judge.

Entry of the render to be made, and defendant committed.

Sec. 31. That on such render or commitment duly certified to the clerk of the court, if done in vacation, it shall be the duty of such clerk to enter an exonerator on the bail piece, and thereupon the bail shall be discharged: *Provided*, The said bail give immediate notice of such render to the plaintiff or his attorney, if within the county.

On commitment, clerk to enter exonerator on bail piece.

Sec. 32. That in all personal actions, in which any defendant shall either before, or after appearance, and before final judgment, be committed to prison, the plaintiff shall proceed to file his declaration or other pleading, within the same time

Plaintiff to file pleadings against person imprisoned, in same time as if out on bail.

To furnish defendant with copy.

Defendant to plead as if out on bail.

Sheriff not liable for the body after second term.

When plaintiff may proceed against special bail.

Execution on a judgment or decree may be issued to any county in the State.

To be executed and returned to the office whence issued.

For neglect, officer may be amerced.

When error taken in original suit, proceedings against bail may be stayed.

If judgment against principal be reversed, bail discharged.

Those defendants served with process, may be proceeded against, though

he would be required to do if the defendant were out on bail; and shall furnish the defendant with a copy thereof; and if he fail to do so, he shall be non-prossed: and such defendant shall also file his plea or other pleading, within the time he would be required to do if he were out on bail; and if he fails so to do, the plaintiff shall be entitled to judgment by default, as in other cases.

Sec. 33. That no sheriff shall be liable to be called upon to produce the body of any defendant, on a *capias ad respondendum*, returned, "I have taken the body;" unless he be required so to do before the expiration of the second term after the return of such *capias*.

Sec. 34. That after a *capias ad satisfaciendum* shall have been returned, "Not found," by the sheriff, the plaintiff may proceed against the special bail upon his, her or their recognizance; and in all cases in which judgment shall be rendered, in any court of common pleas, or in the supreme court, in any county in this State, and the person or persons against whom such judgment or decree is, or shall be rendered, shall remove into, or be residing in, any other county, or shall have property in any other county, it shall be lawful for the party in whose favor such judgment or decree is, or shall be rendered, to sue out of the office of the clerk of the court rendering such judgment or decree, the same process of execution, directed to the proper officer of such other county, as he might or could sue out against parties living in the same county; and process issued, shall be executed and returned to the office from whence it may issue: and if the officer to whom such process may be directed and delivered, shall neglect or refuse to execute and return the same according to the command thereof, or pay over any money made thereon, it shall be the duty of the court from which such process issued, on motion for that purpose, to amerce the said officer in the same manner as though he were an officer of their own proper county; on which amercement process of execution may be taken out, as in other cases.

Sec. 35. That if at any time before or after judgment be rendered against special bail, a writ of error is taken out and allowed, on the judgment against the principal in the suit in which their recognizance was taken, the court may, on motion, stay proceedings against such bail for a reasonable time, on their paying all costs that may have accrued on the proceedings against them; and if, on such writ of error, the judgment against the principal in the suit in which the said bail are bound, shall be finally reversed, so that the said principal be thereby discharged from said suit, then, and in that case, the bail shall be discharged from their recognizance.

Sec. 36. That it shall be lawful for the plaintiff, after a writ shall have been returned, "served" on any one or more of the defendants, to file his declaration against such defendant or defendants; suggesting therein the return made on such writ,

as to such defendant or defendants, as have not been served with the same, and shall proceed therein to final judgment against the defendant so served as in other cases. compare not served.

Sec. 37. That the plaintiff may, by a writ of scire facias, after obtaining judgment as aforesaid, cause any defendant or defendants, on whom the original writ in said cause had not been served, to be made parties to said judgment, unless he or they show good cause why judgment should not be rendered against them; which scire facias shall be directed to the sheriff of the county where such defendant or defendants reside, and shall be returned "served," before such defendant or defendants shall be made a party to such judgment; and the defendants made a party to said judgment as last aforesaid, shall be subject to the same process on said judgment, as they would have been liable to, had they been served with the original process in said suit. Defendants not served with original process, may be made parties to the judgment by scire facias.

Sec. 38. That when any person or persons shall appear without process in any court of common pleas, or supreme court, and confess judgment in favor of any person, on any bond, bill, note, or other contract, wherein any other person or persons, shall be jointly, or jointly and severally, liable with the person or persons confessing such judgment; or where any appeal shall be taken to the court of common pleas, from the judgment of any justice of the peace, rendered on any such bond, bill, note, or other contract, and judgment shall be rendered for the plaintiff, by the court of common pleas in the cause so appealed; the person in whose favor any such judgment shall have been rendered in either of the causes aforesaid, may, by writ or writs of scire facias, cause any person or persons, jointly, or jointly and severally, liable as aforesaid, to be made parties to said judgment, in the same manner as is provided in the preceding section of this act; and the person or persons made parties as aforesaid, shall be liable to the same process of execution as is provided for in said section. In the manner persons liable may be made defendants to judgments confessed by one or more, and to judgments on appeals against part of the obligors.

Sec. 39. That when any writ of habeas corpus cum causa, shall be allowed for removing a cause from the court of common pleas, into the supreme court, the clerk of the supreme court shall take bond and security from the party applying for such writ, as if such case was removed by writ of error; and shall also make out and sign a citation to the adverse party, which shall be served on him in the same manner, and within the same time, as required on a writ of error: *Provided*, That no cause in which the matter in dispute does not amount to one thousand dollars, shall be removed by the writ aforesaid, without a special allowance from one of the judges of the supreme court, which shall not be granted unless on good cause shown. On allowance of habeas corpus cum causa, bond shall be taken and citation issued as on writs of error.

Sec. 40. That the clerk of the court of common pleas, shall return with the writ of habeas corpus cum causa, a transcript of the record of such court in said cause; and the supreme court shall proceed thereon in the same manner, as if such Transcript of record to be returned with the writ.

suit had been commenced, and such proceedings had therein.

In an action for a penalty, plaintiff may assign as many breaches as he may see fit.

Damages to be assessed by jury.

Court to render judgment for penalty, and award execution for the damages assessed, or on default or confession, for the sum due in equity.

Sec. 41. That in all actions in any court of record, upon any bond or other contract in writing, for the recovery of any forfeiture or penalty, for the non-performance of any contract or other agreement contained in any such bond, or contract in writing, the plaintiff may assign as many breaches as he shall see fit and proper; and the jury, in case they find a verdict in favor of the plaintiff in any such action, shall assess damages for such of the breaches so assigned as the plaintiff, upon the trial of the issue, shall prove, and the court shall thereupon give judgment for the full amount of the aforesaid penalty, and shall award execution thereon, for the amount of damages so by the jury assessed, with costs: and if judgment shall be given for the plaintiff on demurrer, or by default or confession, the court before whom the action is brought, shall render judgment as aforesaid for the penalty, and award execution for so much as shall be then due according to equity; and when the sum for which execution should be awarded is uncertain, the same shall, upon the application of either party, be assessed by a jury.

In actions on bonds, &c., matters of defeasance may be pleaded in bar, though condition be not strictly complied with.

Sec. 42. That in any action brought on bond, article of agreement, or other contract in writing, which has a condition or defeasance to make void the same, on the payment of a less sum than the penalty that may be therein mentioned, at a day and place certain; if the obligor or contractor, or his heirs, executors or administrators, have paid to the obligee or contractee, or his executor or administrators, the principal and interest due by the condition or defeasance of such bond, article of agreement, or other contract, though such payment was not made strictly according to the condition or defeasance, yet it may be pleaded in bar, and shall be as effectual as if the money had been paid at the day and place, according to the condition or defeasance, and had been so pleaded.

When judgment by default or confession in such action, defendant may pay into court the amount assessed, and costs, and execution shall be stayed.

Sec. 43. That when judgment by default, confession or demurrer, as mentioned in the preceding section, shall be given for the plaintiff in such action, he may assign as many breaches of the covenants, agreements or conditions, aforesaid, as he shall think fit; and if the defendant, after such judgment entered, and before execution executed, shall pay into the court where the action is or shall be brought, to the use of the plaintiff, or his executors or administrators, such damages as the court or jury shall assess, as herein before provided, by reason of all or any of the breaches of such covenants, agreements or conditions, together with costs of suit, a stay of execution of the judgment shall be entered on record.

On satisfaction of the damages assessed in such action, body and property of do.

Sec. 44. That if by reason of any execution executed, the plaintiff, or his executors or administrators, shall be fully paid or satisfied, all such damages so assessed, with costs of suit, and the legal charges for executing the said executions, the body,

lands, goods and chattels, of said defendant, shall be thereupon forthwith discharged from the said execution; which shall likewise be entered on record: but in every case the said judgment shall, notwithstanding, remain as a security to the plaintiff, his executors and administrators, for any other breaches which may afterwards happen of such covenant, agreements or conditions; upon which the plaintiff, or his executors or administrators, may have a scire facias against the defendant, his heirs, devisees, executors or administrators, assigning other breaches, to summon him or them, respectively, to show cause why execution should not be had or awarded on the said judgment; and thereupon, damages shall be assessed as aforesaid, and execution issue accordingly: and upon payment or satisfaction, in manner aforesaid, of such future damages, costs and charges, as aforesaid, all further proceedings on the said judgment shall be stayed; and so on, as often as the same may happen: and the defendant, his body, land, goods and chattels, shall be discharged from the said execution, in manner aforesaid.

Defendant discharged, but judgment shall remain as security against further breaches, and scire facias may issue thereon.

Damages for further breaches being paid, proceedings again stayed.

Sec. 45. That if at any time, pending an action on any bond, bill, note or specialty, for the payment of a sum certain, the defendant shall bring into court where the action shall be pending, the principal and interest due on such bill, bond, note or specialty, and all such costs as have accrued in any suit or suits in law or equity, upon the said bond, the said money so brought in, shall be deemed and taken to be in full payment and satisfaction of such bond; and the court shall give judgment to discharge the defendant from the same, accordingly.

In an action on bond &c. defendant may bring into court the amount due and costs, and be discharged.

Sec. 46. That if in any other suit pending in either of the courts, the defendant shall at any time bring into court, and deposit with the clerk, for the use of the plaintiff, the amount that he admits to be due, together with all costs that have then accrued, and the plaintiff shall refuse to accept the same in discharge of his suit, and shall not afterwards recover a larger sum than the sum so brought into court, exclusive of costs, he shall pay all costs that may accrue from and after the time such money was so brought in and deposited as aforesaid.

In any action, the defendant may bring into court the amount he admits to be due, with costs, and if plaintiff do not recover more, he shall pay costs.

Sec. 47. That it shall be lawful for the plaintiff in replevin, or for the defendant or tenant, in every other action, to plead in any court of record, with leave of such court, as many several matters as he shall think necessary for his defence; but if, on demurrer, any such matter be adjudged insufficient, costs shall thereupon be awarded by the court.

Plaintiff in replevin and defendant in other actions, may plead several matters.

Sec. 48. That it shall be lawful for the defendant in any action, to plead the general issue, and give any special matter in evidence, which, if pleaded, would be a bar to such action; giving notice with the same plea, of the matter or matters, so intended to be given in evidence.

Special matter may be given in evidence under general issue, with notice.

Sec. 49. That no plea in abatement, other than a plea to the jurisdiction of the court, or when the truth of such plea ap-

Plea in abatement not admitted.

ted without affidavit of its truth.

pears of record, shall be admitted or received, unless the party offering the same file an affidavit of the truth thereof; and where a plea in abatement shall be judged insufficient, the plaintiff shall recover full costs to the time of over-ruling such plea.

Suit not to abate for the non-joinder of partners, but summons may issue for the partners not named in original writ; and if some cannot be found, others may be proceeded against.

Sec. 50. That when any one or more of the partners of a company or association of individuals shall be sued, and the person or persons so sued, shall plead in abatement that all the partners are not joined in the writ, such suit, for that cause, shall not abate; but the plaintiff or plaintiffs may forthwith sue out a summons against the other partners named in the plea, and proceed in all respects thereafter, as though such other partners had been included in the original suit: and if such partners named in said plea, cannot be found, the plaintiff or plaintiffs, upon the return of said summons, may suggest in his declaration the names of those not found, and proceed as in other cases where service is only made on part of the defendants; and no other plea, in abatement for non-joinder of parties, shall be allowed in the cause.

When special demurrer overruled, costs taxed.

Sec. 51. That in all cases where a special demurrer shall be over-ruled, costs may be taxed and allowed the opposite party, to the time of over-ruling said demurrer.

When several are defendants in trespass, &c. and one be acquitted, he shall recover costs.

Sec. 52. That where several persons shall be named defendants in actions of trespass, for an assault and battery, false imprisonment, or in ejectment, and, upon the trial thereof, any one or more of them shall be acquitted by verdict; every defendant so acquitted, shall have and recover his costs of suit, in like manner as if verdict had been given against the plaintiff generally: and in all cases where judgment shall be given for the defendant, he shall recover his costs against the plaintiff, and have execution for the same.

In actions quare clausum fregit, defendant may disclaim, and plead that the trespass was involuntary, and tender of amends before suit brought, and plaintiff shall join issue.

Sec. 53. That in all actions of trespass quare clausum fregit, hereafter to be brought, wherein the defendant shall disclaim, in his plea, to make any title or claim to the land in which the trespass is supposed to be done by the declaration, and the trespass be by negligence, or involuntary; the defendant shall be admitted to plead a disclaimer, and that the trespass was by negligence, or involuntary, and a tender or offer, of sufficient amends, for such trespass, before the action brought: whereupon the plaintiff shall join issue; and if such issue be found for the defendant, judgment shall be rendered against the plaintiff for costs, and he shall be forever barred from all other suits concerning the same trespass.

In ejectment ten days notice to be given tenant.

Sec. 54. That no plaintiff shall proceed, in ejectment, to recover any lands or tenements against a casual ejector, without ten days' previous notice being given to the tenant in possession, (if any there be); and it shall be lawful for the court, on application for that purpose, to make the tenant or landlord, or both, or any other person claiming title to the premises, defendant, in the place of the casual ejector: and in all actions of ejectment, the plaintiff shall have the same benefit and advan-

Any person claiming title may be made defendant. Same benefit from joint, as

tage from a joint demise, that he could from several demises; and separate demises shall only be laid in the names of tenants in common.

Sec. 55. That the plaintiff, on affidavit of the delivery of the declaration in ejectment, shall have judgment against the casual ejector, unless the tenant in possession, or landlord, or other proper person, shall apply to be made defendant, and enter into the common consent rule, within the term, to which the said tenant had notice to appear.

Sec. 56. That in ejectment, where the lessor of the plaintiff is unknown to the defendant, the latter may call for an account of his residence or place of abode, from the opposite attorney; and if he refuse to give it, or gives a fictitious account of a person who cannot be found; or if the lessor of the plaintiff shall not reside, or is not a freeholder, within the county where such suit is brought, the court, on motion before issue joined, shall order security for costs to be given.

Sec. 57. That in ejectment, when the lessor of the plaintiff resides out of the State, or is an infant or dead, the court, on motion before issue joined, may stay proceedings, until a real and substantial person, resident of the county, be named, or security be given for the payment of costs.

Sec. 58. That if any action for mesne profits shall be brought in the name of the nominal plaintiff in ejectment, the court, on motion before issue joined, may stay proceedings until security be given for the payment of costs.

Sec. 59. That if an infant be entitled to any action, his guardian or next friend, shall be admitted to prosecute for him; and if he be sued, a guardian shall be appointed to defend the suit for him: but in no case shall the parole demur, or the proceedings be deferred or stayed, till the infant arrives at full age, neither at common law nor in chancery.

Sec. 60. That every attorney who shall confess judgment in any case, shall, at the time of making such confession, produce his warrant for making the same to the court before whom he makes the confession, if required so to do; and a copy of the said warrant shall then be filed with the clerk of the court in which the judgment shall be entered: and no warrant of attorney for confessing a judgment, executed by any person in custody upon mesne process in a civil action, to the plaintiff at whose suit he is in custody, shall be of any force, unless some attorney, on behalf of such person in custody, and expressly named by him, be present and sign the said warrant of attorney as a witness.

Sec. 61. That if any informer on a penal statute, to whom the penalty, or any part thereof, if recovered, is directed to accrue, shall discontinue his suit or prosecution, or shall be non-suited in the same, or, if upon trial, judgment shall be rendered in favor of the defendant, such informer shall pay all costs accruing on such suit or prosecution, unless such informer

be an officer whose duty it is to commence such suit or prosecution.

In certain actions, plaintiff recovering less than five dollars, shall not recover costs.

Sec. 62. That in all actions for libel, slander, malicious prosecution, assault, or assault and battery, action on the case for a nuisance, or against justices of the peace for misconduct in office; if the jury, on the trial of the issue, or on inquiry of damages, shall find or assess the damages under five dollars, the plaintiff shall not recover any costs.

When judges of common pleas interested, they shall enter the fact on the minutes, and certify the cause to supreme court.

Sec. 63. That if, in any suit or action in the court of common pleas, it shall so happen that there is not a sufficient number of disinterested judges of such court, to sit on the trial of any particular cause then and there pending, it shall be the duty of such court, on the application of either party, to cause the fact to be entered on the minutes of the court, and also to order an authenticated copy thereof, with all the proceedings in such suit or action, to be forthwith certified to the next supreme court of the county; which supreme court shall thereupon take cognizance thereof, in like manner as if it had been originally commenced in that court, and shall proceed to hear and determine the same accordingly.

Certain suits not to abate by the death of parties.

Sec. 64. That no suit or action pending in any court, except those mentioned in the sixty-second section of this act, shall abate by the death of either or both of the parties thereto; but the cause of action shall survive, and the executor or administrator of such deceased party, whether plaintiff or defendant, shall have a right to prosecute or defend any such suit or action, unto final judgment and execution: and every executor or administrator of any such deceased defendant, is hereby required and obliged to become a party to said suit or action, and to defend the same accordingly.

Executors etc. may prosecute and defend.

Such suits to be determined as justice may require.

Sec. 65. That the court before whom such suit or action may be pending and undetermined, is hereby authorized and required to hear, try and determine the same, and to render judgment for, or against the executor or administrator of any such deceased party, according to the justice of the case.

Executor, &c. neglecting to become a party to suit, citation may issue.

Sec. 66. That if the executor or administrator of the deceased plaintiff or defendant, shall neglect or refuse to apply to the court, when such suit or action may be pending, at or during the session thereof, next succeeding the death of such party, the court shall, at the same term, order the death of such party to be suggested on the record, and a citation to issue, returnable to the next term thereafter; whereby the said executor or administrator of such deceased party, shall be cited to appear at the return term of the said citation, and cause himself to be made a party to said suit or action, instead of his testator or intestate.

Executor of plaintiff, etc. cited, and neglecting to become

Sec. 67. That if the executor or administrator of such deceased plaintiff, shall neglect or refuse, after having been duly served with such citation, to become a party to the said action.

the court shall thereupon render judgment of non-suit against the said executor or administrator as such, for costs of suit. party, shall be non-suited.

Sec. 68. That if the executor or administrator of such deceased defendant, shall, after having been duly served with such citation, neglect or refuse to appear and become a party to the suit or action, the court shall cause the appearance of such executor or administrator to be entered; and the cause shall thereafter be proceeded in, and tried in the same manner, and such judgment be rendered therein, as if such suit or action had been originally brought against such executor or administrator. Executor, etc. of defendant, cited and neglecting to become party, how court shall proceed.

Sec. 69. That if in any such suit or action, there be two or more plaintiffs or defendants, and one or more of such plaintiffs or defendants shall die before final judgment, such suit or action shall not thereby abate, but the cause of action shall survive to the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants; and such death being suggested on the record, the suit or action shall proceed in the same manner, as if such death had not happened. When two or more plaintiffs or defendants, and one dies, survivor may prosecute or defend.

Sec. 70. That after final judgment, the surviving plaintiff or plaintiffs, may, by writ or writs of scire facias, cause the executor or administrator of any such deceased defendant or defendants, to be made parties to said judgment; which scire facias shall be served and returned in the same manner that a summons is, or may be, required to be served and returned by law. Executors etc. of deceased defendant may be made party to judgment by scire facias.

Sec. 71. That any judgment obtained or rendered under the preceding sections, against the executor or administrator of any such deceased party, shall be considered as standing in the same situation as any other allowed or liquidated demand; and shall be paid by such executor or administrator at such times, and in such proportion, as other just demands against the estate of such testator or intestate. Such judgment against an executor, etc. on a footing with other liquidated demands.

Sec. 72. That no action of ejectment, or for waste, pending in the court of common pleas, or supreme court, shall abate by the death of the defendant before final judgment; but the cause of action shall survive against the heir or devisee of any such deceased defendant: and such heir or devisee, may be made a party defendant to any such action, in the same manner that an executor or administrator may be made a party to any personal action, according to the foregoing sections of this act. Action of ejectment or waste not to abate by death of defendant, but heirs or devisees may be made parties.

Sec. 73. That if the heir or devisee of any such deceased defendant, shall, after having been cited in the manner aforesaid, neglect or refuse to appear and become a party to such action, the court shall cause the appearance of such heir or devisee to be entered; and the cause shall thereafter be proceeded in and tried, and the same judgment shall be rendered therein, as if such action had been originally brought against such heir or devisee. The heir or devisee cited, and neglecting to become party, how court shall proceed.

Sec. 74. That if any person having a right to commence and

When party dies before suit brought, certain causes of action to survive, and the executor or administrator may sue and be sued.

maintain an action of trespass, or trespass on the case, for means profits; or for an injury done or suffered to his estate, real or personal; or for any deceit or fraud committed in the sale or exchange thereof; or, if any person liable to either of such actions shall die before such action shall be brought, the cause of such action shall nevertheless survive: and any such action may be brought by the executor or administrator of the deceased party, having such right of action, or it may be brought against the executor or administrator of the deceased party, liable to such action; and it may be proceeded in to final judgment and execution, as in other cases for or against executors and administrators.

Courts may grant a *dedimus potestatem*, and direct depositions to perpetuate testimony to be taken.

Sec. 75. That the said courts, or any president judge thereof in vacation, shall each have power to grant a commission, or *dedimus potestatem*, to take depositions, according to the common usages of courts, where it may be necessary to prevent the delay or failure of justice; and each of said courts, sitting as a court of equity, shall have power, on application for that purpose, to order and direct depositions to be taken in *perpetuam rei memoriam*, relating to any matter cognizable by such court, according to the usage of courts of equity in like cases.

Courts may establish rules of practice not repugnant to law.

Rules of supreme court to be certified to common pleas in each county.

Rules of common pleas to conform to rules of supreme court.

Sec. 76. That it shall be the duty of the judges of either of said courts, from time to time as occasion may require, to make rules and orders for their respective courts; to direct the mode of taking rules and entering and making up judgments by default or otherwise, in a manner not repugnant to the laws of this State; to regulate the practice of the said courts respectively, as shall be fit and necessary for the advancement of justice, and especially to prevent delay in proceedings, and cause such rules to be entered on the journals of the court of such county: and, in order that the rules of practice and proceedings of the several courts of common pleas may be uniform, and, as near as may be, conformable to the rules of the supreme court, the judges of the supreme court shall order the clerk of the said court to transmit copies of their rules and regulations to the clerks of the courts of common pleas in every county, that the judges of the said courts shall, from time to time, make rules and regulations agreeably thereto, as near as may be, for the practice of their courts respectively.

Plaintiff to deliver to defendant bill of particulars, copy of note etc. on which he sues.

Sec. 77. That the plaintiff or his attorney, if required, shall deliver to the defendant or his attorney, a copy of the account or bill of particulars of the demand, or a copy of the bill, bond, deed, bargain, contract, note, instrument or other writing, whereon the declaration is founded, or which he intends to offer in evidence at the trial.

Defendant in like manner to furnish plaintiff with copy, etc.

Sec. 78. That the defendant or his attorney, if required, shall deliver to the plaintiff or his attorney, a copy of any deed or instrument of writing, of which, in his plea, he shall make profert; or a copy of any bill, bond, deed, note, receipt,

bargain, contract, instrument of writing, or bill of particulars of any account or demand, which he intends to offer in evidence at the trial of the cause; and if the plaintiff or defendant shall refuse to furnish the copy or copies required, agreeably to the provisions of this section or the preceding section, the party so refusing shall not be permitted to give in evidence at the trial, the original, of which a copy has been refused as aforesaid.

Either party refusing, shall not give the original in evidence.

Sec. 79. That the party, whether plaintiff or defendant, shall take notice of the filing of the declaration, or other pleading in the cause, at his peril, without service of a copy and notice of the filing of such declaration or other pleading, except as herein before excepted.

Parties to notice the filing of pleadings at their peril.

Sec. 80. That the defendant, at any time before issue joined, may move the court to consolidate unnecessary actions, or to strike out superfluous counts in the declaration.

Actions consolidated before issue.

Sec. 81. That where there are issues in law and in fact, the issue in law shall be determined, before the issue in fact shall be tried.

Issues in law first tried.

Sec. 82. That where judgment shall be entered by default, against the defendant, the court shall assess the damages, unless the plaintiff or defendant request a writ of inquiry.

On defaults the court may assess damages.

Sec. 83. That the party against whom a verdict hath been rendered, may move for a new trial; and, if it be denied, may then move in arrest of judgment: but he shall not be permitted to move for a new trial, after a motion in arrest of judgment.

Motion for a new trial to precede a motion in arrest.

Sec. 84. That every special verdict and demurrer to evidence, shall be entered on the minutes of the court; after which, either party may move the court to assign a day for argument.

Proceedings on special verdict, &c.

Sec. 85. That if execution shall not be sued out within five years from the date of any judgment that now is, or that may hereafter be, rendered in any court within this State; or if five years shall have intervened between the date of the last execution issued on any such judgment obtained as aforesaid, and the time of suing out another writ of execution thereon, such judgment shall become dormant, and shall cease to operate as a lien on the estate of the judgment debtor.

Judgment standing five years without executor, becomes dormant, and its lien ceases.

Sec. 86. That if such judgment still remain unsatisfied, it shall be lawful for the plaintiff, his heirs, executors or administrators, to bring and maintain an action of debt, on such dormant judgment, against the defendant therein, his heirs, executors or administrators; or such plaintiff, his heirs, executors or administrators, may, at his or their election, revive, by writ of scire facias, sued out from the court rendering such judgment, or from the court having power to award execution thereon, any such judgment remaining unsatisfied, and have execution thereof, against the defendant, his heirs, executors or administrators.

But debt may be brought on such judgment, or it may be recovered by scire facias.

Service of scire facias.

Sec. 87. That on the said writ of scire facias being returned "scire feci," or on two writs of scire facias being returned, "nihil," the defendant shall be considered in court, and may be proceeded against accordingly.

Matter of defence subsequent to judgment, may be pleaded.

Sec. 88. That the defendant, his heirs, executors or administrators, shall be admitted to plead any matter, arising subsequent to the rendition of the judgment, he or they can alledge, to show why execution should not be awarded; and the court may render such judgment, and award such execution, as ought to be rendered or awarded in the premises.

Either or both parties dying after judgment, and before satisfaction, their personal representatives may be made parties, and the judgment revived by scire facias.

Sec. 89. That if either the plaintiff or defendant, or both, shall have died after final judgment, and before satisfaction thereof, it shall, and may be lawful for the plaintiff, or if he shall have died, then for his real or personal representatives, as the case may require, to cause the defendant, or if he shall have died, then his representatives, real or personal, as the case may require, to be made a party to such judgment, by writ or writs of scire facias, to be issued, served, and returned, in the same manner that a summons may be issued, served, and returned by law; and such judgment may be rendered, and execution awarded in the premises, as might or ought to be given, or awarded against the representatives, real or personal, of a deceased party in other cases.

The like when original judgment was against the plaintiff.

Sec. 90. That if the plaintiff shall die after any final judgment rendered against him, and before satisfaction thereof, it shall, and may be lawful for the defendant, or if he shall have died, then for his representatives, real or personal, as the case may require, to cause the representatives, real or personal, as the case may require, of such deceased plaintiff, to be made a party to such judgment, in the manner pointed out in the preceding section; and the court may render the same judgment, and award the same process of execution, in the premises, as is directed in that section.

Causes to be docketed twelve days before court.

Sec. 91. That at least twelve days before every court of common pleas, or supreme court, the clerks of the respective courts shall enter in a particular docket, all such causes, (and those only) in which an issue is to be tried, or an inquiry of damage is to be made, or a special verdict, or a case agreed, demurrer, or other matter of law, is to be argued, in the same order as they stand in the course of proceeding; setting as near as may be, an equal number of causes to each day of the time allowed by law for the sitting of such court, if, in his opinion, so many days will be required, in trying the causes ready for trial, and issue subpoenas for witnesses to attend on the days on which the causes stand for trial: and no cause shall be removed from its place on the docket; but all causes in which the intervention of a jury is necessary, shall be tried in the order in which they stand, unless the parties otherwise agree, or be continued until next term.

An equal number to be set for each day.

Subpoenas to be issued for witnesses.

Sec. 92. That the clerk of each of the courts of this State, shall make out a copy of the trial docket for the use of their respective courts, by the first day of each term thereof. Copy of docket to be made for court.

Sec. 93. That the declaration, pleadings, and other papers, relative to every cause, shall be filed together in the office of the clerk of each court, and be by him carefully preserved. Filing and preservation of papers.

Sec. 94. That for preventing errors in entering the judgments, orders, and decrees of each court, the judges thereof, before every adjournment, shall cause the minutes of their proceedings to be publicly read by their clerk, and corrected where necessary, and the same shall be signed by the president judge then sitting in court; which minutes so signed, shall be entered in a book and carefully preserved among the records: and no proceedings, orders, judgments, or decrees, of either of the said courts, shall be in force or valid until the same be so read and signed. Minutes of proceedings to be read and signed before adjournment.

Sec. 95. That the clerk of each court, shall enter in a docket book to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered, what return is made thereon, in case the same be returned, and the final satisfaction of the judgment, when the same is made; and the clerk shall keep the said docket in court while sitting. Clerk to keep an execution docket and have the same in court while sitting.

Sec. 96. That in all cases where a non-suit may be directed by the court of common pleas, by reason of irrelevancy of testimony, or by reason that the testimony adduced, does not support the case set forth in the declaration, and also, whenever the testimony shall be arrested from the jury, by reason of which the plaintiff becomes non-suit, the plaintiff shall have the same right to appeal as in other cases: and either party shall also have the right to except to the opinion of the court, on a motion to direct a non-suit, to arrest the testimony from the jury; and also, in all cases of motions for a new trial, by reason of any supposed misdirection of the court to the jury, or by reason that such verdict may be supposed to be against law; so that such case may be removed by writ of error: and when a party to a suit, in any court of common pleas within this State, alleges an exception to any order or judgment of such court it shall be the duty of the judges of such court, concurring in such order or judgment, if required by such party during the term, to sign and seal a bill containing such exception or exceptions as heretofore, in order that such bill of exceptions may, if such party desire it, be made a part of the record in such suit. In what cases of non-suit plaintiff may appeal. Exceptions to the opinion of the court may be taken. Exceptions to be signed and sealed.

Sec. 97. That the supreme court and court of common pleas, shall have power, in the trial of actions at law, on motion, and on ten days' notice thereof, to require the parties to produce books and writings in their possession or power, which contain evidence pertinent to the issue, in cases and under circumstances where they might be compelled to produce the same by the Courts may require parties to produce books and writings in evidence.

Consequence of failure to comply,

ordinary rules of proceeding in chancery: and if the plaintiff shall fail to comply with such order to produce books or writings, the courts respectively, on motion as aforesaid, may give the like judgment for the defendant, as in case of non-suit; and if a defendant shall fail to comply with such order to produce books or writings, the courts respectively, on motion as aforesaid, may give judgment against him by default.

Courts may grant new trials.

Administer oaths and punish contempts.

Sec. 98. That the supreme court and court of common pleas, shall respectively have power to grant new trials in cases where there has been a trial by jury, for reasons for which new trials have usually been granted in the courts of law; and shall have power to administer all necessary oaths and affirmations, and to punish by fine or imprisonment, or both, at the discretion of the said courts, all contempt of authority in any cause or matter in hearing before the same: *Provided*, That not more than two new trials be granted to the same party, in the same cause.

How to proceed where new trial is applied for in supreme court.

Sec. 99. That when, in the supreme court, judgment upon a verdict in a civil action shall be entered, it shall be competent for either party, during the term, to give notice that he will make an application to the judges for a new trial; which notice shall be entered of record upon the minutes of the court, and the reasons for the same filed with the clerk: and it shall be competent for the party giving the notice aforesaid, at any time within twenty days, to apply to the supreme court, or any two judges thereof, for a new trial in the said cause, and shall submit the evidence in support thereof, with a copy of the reasons which may have been filed; which application, the said court, or any two judges thereof, may grant or refuse, in their discretion.

When new trial granted by supreme court, what to be done.

Sec. 100. That if the application shall be granted, the court, or any two judges thereof, shall certify the same to the clerk of the court of the county where the action aforesaid shall have been tried; and the judgment shall thereby be vacated, and the cause stand for trial at the succeeding term; otherwise execution or mandate shall issue, as in other cases: *Provided*, That in every case, the certificate of the court, or the judges thereof, shall be filed within ninety days from the rising of the court, and not after.

Complete record to be made in vacation, and signed at next term.

Sec. 101. That the clerk of each court shall, in vacation, make a complete record of the writ, recognizance of bail, pleadings, orders and judgments or decrees, in each cause finally determined at the preceding term, in a book to be provided and kept for that purpose; which record shall be signed by the president or presiding judge of said court, at the next succeeding term of said court.

Records not brought up, to be made, examined and signed.

Sec. 102. That in all cases where the judicial acts, or other proceedings, of the supreme court or court of common pleas, in any county in this State, have not been regularly brought up and recorded by the clerks thereof, it shall be the duty of the supreme court or court of common pleas, as the case may be,

to cause the same to be made up and recorded, within such time as the court may direct; and when so made up, the court shall examine the said records, and if found correct, the president judge shall sign the same, as is provided in the preceding section.

Sec. 103. That final judgments in the courts of common pleas, may be examined, and reversed or affirmed, in the supreme court holden in the same county, upon a writ of error; whereto shall be annexed and returned therewith, at a day and place therein mentioned, an authenticated transcript of the record and assignment of error, and prayer for a reversal, with a citation to the adverse party, or his attorney, signed by the clerk of the supreme court, the adverse party having at least ten days' notice.

Judgments of common pleas may be examined and reversed or affirmed in supreme court, on writ of error.

Sec. 104. That no writ of error shall operate as a supersedeas to any execution issued on any final judgment of the court of common pleas, unless the clerk, before signing such citation, shall take a bond from the applicant to the adverse party, with one or more good and sufficient securities, in double the amount of the judgment obtained, conditioned for the payment of the condemnation money and costs, in case the judgment of the common pleas should be affirmed, in whole or in part; and writs of error shall not be brought, but within five years after rendering the judgment complained of: or in case the person entitled to such writ of error be an infant, feme covert, non compos mentis, or imprisoned, then within five years as aforesaid, exclusive of the time of such disability.

Writ of error not to operate as a supersedeas till bond given.

Description of bond.

Error to be brought within five years from rendition of judgment.

Sec. 105. That no summons, writ, declaration, return, process, or other proceedings in civil causes, in either of the said courts, shall be abated, arrested, quashed or reversed, for any defect or want of form; but the said courts, respectively, shall give judgment according to the right of the cause, as the matter in law shall appear unto them, without regarding any imperfection, defect or want of form in such writ, declaration or other pleading, returned process, or course of proceeding whatsoever, except those only in case of demurrer, which the party demurring shall specially set down and express, together with his demurrer, as the cause thereof: and the said courts respectively may, by virtue of this act, from time to time, amend all and every such imperfection and defect for want of form, other than those only which the party demurring shall express as aforesaid; and may, at any time before a writ of error be brought, permit either of the parties to amend any defect in process or pleadings, upon such conditions as the said courts respectively shall, in their discretion and by their rules, prescribe.

No proceedings to be quashed for want of form.

Pleadings may be amended at any time before writ of error brought.

Sec. 106. That when a judgment shall be reversed in the supreme court, in whole or in part, such court may proceed either to render such judgment as the court of common pleas should have rendered, or remand the cause to the court of

When judgment reversed, the supreme court may render judgment or remand cause

to common
pleas.

Supreme court
not to issue ex-
ecution, but shall
remand mandate
to common pleas

common pleas, by writ of procedendo, for such judgment; and the supreme court shall not issue execution in causes that are removed before them by writ of error, on which they pronounced judgment as aforesaid, or on appeals, but shall send a special mandate to the court of common pleas to award execution thereupon: and such court is hereby authorized and required to proceed in such cases, in the same manner as if such judgment had been rendered therein; and, on motion, and good cause shown, they may suspend any execution made returnable before them by order of the supreme court, in the same manner as if such execution had been issued from their own court: *Provided*, That such power shall not extend further than to stay proceedings till the matter can be further heard by the supreme court.

Costs, how taxed
on error.

Sec. 107. That when a judgment is reversed, the plaintiff in error shall recover his costs; when a judgment is affirmed, the defendant in error shall recover his costs; when a judgment is arrested, the party prevailing shall recover his costs; and when a judgment is reversed in part, and affirmed in part, costs shall be equally divided between the parties.

Appeals to su-
preme court, in
what cases al-
lowed.

Sec. 108. That in civil cases an appeal shall be allowed, of course, to the supreme court, from any judgment or decree rendered in the court of common pleas, in which such court had original jurisdiction.

Notice of inten-
tion to appeal, to
be entered in
term.

Sec. 109. That the party desirous of appealing his cause to the supreme court, shall, at the term of the court of common pleas in which judgment or decree was rendered, enter on the records of the court notice of such intention; and, within thirty days after the rising of such court, shall enter into bond to the adverse party, with one or more good and sufficient securities, to be approved of by the clerk of such court, in double the amount of the judgment or decree rendered, conditioned for the payment of the full amount of the condemnation money, in the supreme court, and costs, in case a judgment or decree should be entered therein in favor of the appellee: and in case notice of appeal is entered as aforesaid, the court may, on motion of the party entering such notice, on laying him under such reasonable restrictions and terms as they may judge necessary for the security of the adverse party, direct execution to be stayed for thirty days: *Provided*, That in no case shall administrators or executors be compelled to give bond and security in order to perfect an appeal, as is above provided: and in such cases the clerk, if not otherwise directed, shall, at the expiration of thirty days from the rising of the court, make out a transcript; which, together with the papers and pleadings filed in the cause, he shall transmit to the clerk of the supreme court, according to the provisions of this act, in other cases of appeal.

Bond to be given
in thirty days.

Condition of the
bond.

When notice of
appeal given
court may stay
execution thirty
days.

Executors and
administrators
may appeal with-
out giving bond.

Lien on real es-
tate not affected
by appeal.

Sec. 110. That in all cases where the party against whom a judgment is rendered, in the court of common pleas, appeals

his cause to the supreme court, the lien of the opposite party on the real estate of said appellant, created by said judgment, shall not be by said appeal removed or vacated; but the real estate of said appellant shall be bound in the same manner as if said appeal had not been taken, until the final determination of the cause in the supreme court.

Sec. 111. That if the plaintiff appealing, shall not recover a greater sum in the supreme court, than in the court of common pleas, exclusive of costs and interest, which may have accrued since the rendition of the judgment in the court of common pleas, he shall pay all costs that may have accrued in the supreme court in such case: and if the defendant in any personal action shall remove the same by appeal to the supreme court, and the plaintiff shall recover in such cause a judgment for the same sum, or a larger sum than was recovered in the court of common pleas, exclusive of costs, the supreme court shall render judgment for the sum so recovered, with costs of suit.

Costs in supreme court on appeals, when to be paid by plaintiff.

When by defendant.

Sec. 112. That when an appeal shall be granted, and bond and security given thereon as aforesaid, the judgment or decree rendered in such case, in the court of common pleas, shall thereby be suspended; and the clerk of such court shall forthwith make out an authenticated transcript of the docket or journal entries, and of the final judgment or decree, made and rendered in the case; which transcript, together with the original papers and pleadings filed in the cause, he shall deliver into the office of the clerk of the supreme court, on or before the first day of the term thereof, next after perfecting the appeal in manner aforesaid: *Provided*, That either party may require a full record to be made of such cause in the court of common pleas; and the same, when so required, shall be made at his own proper costs and charges.

Judgment of common pleas suspended by appeal.

Transcript of entries, and the original papers, to be delivered to clerk of supreme court.

Proviso as to record in common pleas.

Sec. 113. That the clerk of the supreme court shall, prior to the filing with him of the transcripts, as herein before provided, on the application of either party to an appeal, issue subpoenas for witnesses, returnable to the first day of the next term of said court, on satisfactory proof being made before him that such appeal has been taken.

Clerk of supreme court may issue subpoenas before transcript filed.

Sec. 114. That when any cause is removed by appeal into the supreme court, the appeal shall be tried on the pleadings made up in the court of common pleas, unless for good cause shown, and on payment of costs, the said court should permit either or both parties to alter their pleadings; in which case, such court shall lay the parties under such equitable rules and restrictions, as they may conceive necessary to prevent delay.

Appeals to be tried on pleadings made up in common pleas, unless, etc.

Sec. 115. That when judgment shall be rendered by the supreme court, in any case brought before them by writ of error, in which errors in law may have been assigned; or in any case brought before them by appeal, or by any writ issued

In certain cases the supreme court shall reduce their opinions to writing, and file the same.

with the papers
of the cause.

from said supreme court, in which there may have been an issue in law or demurrer to evidence, or in which there may have been a verdict and motion in arrest of judgment; or for a new trial, founded on a supposed misdirection of the court to the jury, or on the improper admission of testimony, or the irrelevancy of testimony; or upon any allegation that such verdict is against law—it shall be the duty of the court to reduce the reasons of their judgment to writing, and cause the same to be filed with the other papers of such cause: and if it should so happen that the judges of said court should differ in opinion, then the dissenting judge shall reduce to writing the reasons of his opinion; and the same shall be filed as aforesaid.

When some
counts in decla-
ration good, and
some bad, effect
of verdict.

Sec. 116. That where there are in a declaration several counts, any one or more of which shall be defective, and the residue good, and entire damages are given, the verdict shall be good and effectual in law: *Provided*, The plaintiff, before the jury retire from the bar, apply to the court to instruct the jury to disregard such defective count or counts.

Verdict in deti-
nue omitting
price, how to
proceed.

Sec. 117. That if in detinue, the verdict shall omit price or value, the court may, at any time, award a writ of inquiry to ascertain the same: if on an issue concerning several things in one count in detinue, no verdict be found for part of them, it shall not be error; but the plaintiff shall be barred of his title to the things omitted.

A quorum of the
judges failing to
attend, judge or
sheriff may ad-
journ court.

Sec. 118. That in case a quorum of the supreme court or court of common pleas, shall fail to attend at the time and place appointed for holding their respective courts, the judge attending, (or if no judge be present, then the sheriff or coroner, as the case may be,) shall have power to adjourn the court from day to day, until a quorum be convened; or, if no quorum shall be present within two days after the first day of the term, then, and in such case, all suits, plaints, process and pleadings, of whatever nature, commenced or depending in the said court, shall stand continued, of course, to the next term to be holden in said county by the said court.

Venue may be
changed.

Sec. 119. That in all cases in which it shall be made to appear to the court, that a fair and impartial trial cannot be had in the county where the suit is pending, the court may direct the venue to be changed to some adjoining county.

Act repealed.

Sec. 120. That the "Act to organize the judicial courts and regulate their practice," passed February the eighteenth, in the year eighteen hundred and twenty-four; and the act amending the last named act, passed February third, eighteen hundred and twenty-six; and the act entitled "An act to provide more effectually for the taking of depositions, and to dispense with the making of full records of judgments in certain cases," passed February twentieth, eighteen hundred and twenty eight; be, and the same are hereby, repealed: *Provided*, That all rights acquired, and duties, or obligations, incurred under, and by virtue of, the above mentioned acts, or either of them.

Saving clause.

shall be saved, and remain as available, as if the said acts had not been repealed; and all actions, suits, causes or matters, pending at the time this act shall take effect, may be prosecuted and defended, and carried into final judgment and execution, under the provisions of this act.

This act to take effect, and be in force, from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 8, 1831.

AN ACT directing the mode of proceeding in chancery.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the court of common pleas shall have jurisdiction, ^{Jurisdiction of common pleas.} in all cases, properly cognizable by a court of chancery, in which plain, adequate, and complete remedy cannot be had at law.

Sec. 2. The supreme court shall have concurrent jurisdiction with the courts of common pleas, in all cases, properly cognizable by a court of chancery, where the title to, or any contract in relation to land is in question, or the sum or matter in dispute, exceeds one thousand dollars in value; and appellate jurisdiction, in all cases, regularly brought before them, ^{Of supreme court. Concurrent. Appellate.} from the chancery decisions of the courts of common pleas.

Sec. 3. The said courts shall have power to make rules and regulations, for the government of proceedings had before them, and shall, in all things, be governed by the known usages of courts of equity, except where it may be otherwise provided by law. ^{To be governed by usages in chancery.}

Sec. 4. All applications to the chancery side of either of said courts, shall be by petition, setting forth the nature and grounds of the complainant's claim, which shall be filed in the office of the clerk of such court. ^{Application by petition.}

Sec. 5. The clerk, on the application of the complainant or his solicitor, shall, (after said petition is filed,) issue a subpoena ^{Subpoena to} to the defendant or defendants named in said petition, commanding him or them to appear at the next term of the court, and answer the complainant's petition; and if the petition is ^{In term returnable forthwith.} filed in term time of either of said courts, then the subpoena shall issue, returnable forthwith.

Sec. 6. The following shall be the form of a writ of subpoena:

THE STATE OF OHIO, County, ss.

To the sheriff (or coroner, as the case may be,) of the county of

Greeting:

We command you, that you summon A. B., to appear before us. ^{Form of subpoena.}

L

the judges of our supreme court, (or judges of our court of common pleas, as the case may be,) at the court-house, on the day of instant, (or next ensuing,) to answer a petition in chancery, exhibited against him by C. D.; and this he shall in no wise omit, under the penalty of one thousand dollars, and have then and there this writ. Witness, the honorable E. F. chief judge, (or president judge,) of our said court, at the court-house, this day of G. H., clerk of of Which subpoena shall be signed by the clerk, sealed with the seal of the court, and be tested of the same day on which it issued.

Sec. 7. Where the complainant shall make several defendants to his petition, who reside in different counties in this State, the clerk of the court in which the same is filed, may issue subpoenas into the several counties, in which said defendants are supposed to reside, directed to any proper officer therein, who shall serve and return the same: and in cases where any or all of the defendants reside out of this State, the complainant may cause personal service of a subpoena, with a copy of the petition; or he may cause notice of the pendency of the petition, containing a summary statement of the object and prayer thereof, to be published six consecutive weeks, in some newspaper printed in the county where the petition is filed, if there be any, and if not, in some newspaper printed in this State, of general circulation in the county.

Sec. 8. The service of a subpoena, or other process for appearance, shall be by delivering a copy thereof to the defendant, or leaving one at his dwelling house, or usual place of abode; and the officer or other person serving the same, shall indorse on the original, the time and manner of service: and when the service is made out of this State, the return shall be verified by oath or affirmation; and upon return of service of the process, or due proof of notice having been given as aforesaid, the defendants shall be considered in court.

Sec. 9. The complainant may insert as many defendants in his petition as he may think proper, though they claim under different titles; but if any of the defendants disclaim, he shall pay their costs, except when the court, for special reasons, may otherwise decree.

Sec. 10. In cases where it shall be necessary to make the heirs of any decedent, defendants, and the names of all, or part of them, are unknown, and the complainant annexes to his petition an affidavit, of his want of knowledge of the names or residence of such heirs, proceedings may be had against them, without naming them, and the court shall make such order in relation to notice, as they may deem proper.

Sec. 11. In cases where the title to, or boundaries of land, or contracts concerning lands or tenements, are drawn in question in chancery, and any or all of the defendants are non-residents of the State, suit may be prosecuted in any coun-

Subpoena may
issue to any
county in the
State.

When defend-
ants reside out of
the State, notice
may be personal
or by publication

Mode of serving
subpoena or other
process.

Defendants under
different titles
may be defend-
ants to same bill.

When the names
of heirs are un-
known, how to
proceed:

Suits concerning
lands to be in the
county where
the land lies.

ty where the land lies, and the court shall direct the manner of giving notice to the absent defendants.

Sec. 12. When either party shall have been called on for a discovery under oath, and the facts as to which the discovery is prayed, are afterwards submitted to a jury; the answer put in as to such facts, shall be laid before the jury in the same manner, as in issues directed to be tried at law, by a court of chancery.

Answer to bill of discovery, shall go to jury.

Sec. 13. In all suits in chancery, which may be brought for the foreclosure or redemption of any mortgage, or for the foreclosure or specific performance of any contract in writing, for the sale or incumbrance of any real estate, and the real estate described in such mortgage or contract in writing, shall lie in different counties in this State, the complainant may file his petition in the supreme court or common pleas, in either of the counties in which such real estate may be situated, and the court shall proceed therein; and any order, interlocutory or final decree made in such suit, shall be enforced by process, directed to the sheriff or other officer of any county, in which any part of said real estate is situated: *Provided*, That any decree rendered in any such suit, shall not operate in any other county than the one in which it is rendered as notice, except where a certified copy of it shall be recorded in the recorder's office.

Petitions concerning lands lying in different counties in what court filed.

Decree not notice out of the county till recorded.

Sec. 14. Any person having the legal title and possession of lands, may file a petition against any other person, setting up a claim thereto; and if the complainant establishes his title to said lands, the defendant shall be decreed to release his claim, and to pay the complainant his costs, unless the defendant in his answer, shall disclaim all title or claim to such lands, and offer to give such release to the complainant; in which case the complainant shall pay to the defendant his costs, except for special reasons, the court shall otherwise decree.

Persons having title and possession of land may compel other claimants to release.

Sec. 15. When a suit at law, for the recovery of money or damages, for any cause of action which would survive to, or against, the personal representative of the plaintiff or defendant; or whenever a suit in chancery, for the recovery of a specific sum of money or damages, shall be pending in either of the courts aforesaid, against a non resident defendant, or against a resident defendant, who has, during the pendency of said suits, either secretly departed out of the jurisdiction of the court, or secreted himself or property within the same, so that the ordinary process of law cannot be served on either, and there should be any person or persons, resident within such jurisdiction, who is, or are indebted to, or has in possession, goods and chattels, rights, credits, moneys or effects, belonging to such non-resident, or secreting defendant; the said plaintiff at law, or complainant in chancery, may file a petition against the person or persons so indebted, or having in his possession the goods and chattels, rights, credits, moneys or effects,

Bill may be filed against the debtor or of a defendant in suit pending, or person holding his effects.

Injunction may
issue.

of such non-resident, or secreting defendant, annexing an affidavit of the truth of the allegations therein contained, and of the amount of the debt or damages by him claimed; and the court may, in their discretion, enjoin such other person or persons from paying over, conveying away, or secreting such debts by him owing to said non-resident, or secreting defendant, or his goods and chattels, rights, credits, moneys or effects, until the final judgment at law, or decree in chancery, can be had in such former cause: and the court, on final hearing, shall make such final order or decree between the parties, as they shall think just and equitable.

Equitable interest in land, stock in banking and other companies, debts, choses in action, &c. subjected to the payment of judgments and decrees.

Sec. 16. In all cases where judgments at law, or decrees in chancery, have been obtained, and rendered against any person, and the debtor has not personal or real estate, subject to levy on execution, sufficient to satisfy said judgment or decree; but has any equitable interests in real estate, as mortgagor, mortgagee, or otherwise; or any interest, shares, or stock, in any banking, turnpike, bridge, or other joint stock company; or any judgments or decrees, or any money, contracts, debts, or choses in action, due to him, or which may become due; or moneys, goods, and effects, in the hands or possession of any person, body politic or corporate; the same may be subjected in chancery, to the payment of said judgment or decree, and applications may be made to the courts of chancery, in the county where such judgment or decree was rendered, or where said lands lie, to subject any or all of the herein before enumerated interests, to the payment of the judgment or decree aforesaid, according to the usual course of proceeding, and known usages of courts of chancery, and the said court shall decree sales, and enforce all necessary transfers and conveyances, to vest in any person purchasing, or taking under such decree, all the right, title, and interest, of the said debtor, in the interests sold, or the subject of the decree, at the time of the service of process in such case, to be held in the same manner such debtor held the same: *Provided*, That the sale of all equitable interests in real estate, shall be conducted in all respects, in the same manner as is provided by law, for the sale of real estate, in the "act regulating judgments and executions."

Proceedings in relation thereto.

Equities in land, how sold.

Defendant to plead, answer or demur, in sixty days after appearance term, or decree pronounced.

Complainant may be examined under oath.

Sec. 17. The defendant shall file his plea, demurrer, or answer, to the petition, in the clerk's office of the court where the cause is pending, in sixty days next after the term to which process is returned, "served;" or to which the defendant has been notified to appear, unless the court allow further time: and if the plea, demurrer, or answer, shall not be filed as aforesaid, the petition shall be taken as confessed by the defendant; and the court may thereupon decree, or in its discretion, require, the production of proof from the complainant; or examine him under oath, touching the premises, causing the examination to be reduced to writing, and filed with the papers

in the cause, and thereupon make such final, or other decree, as to them shall seem just and equitable.

Sec. 18. When a plea is filed, and the complainant receives the same to be good, though not true, he may reply, and take issue upon it, and proceed as in case of answer. Issue may be taken on plea.

Sec. 19. If the defendant file a demurrer and answer, the complainant shall not proceed on the answer, till the demurrer has been argued or disposed of. Demurrer first disposed of.

Sec. 20. If the plea or demurrer be overruled, no other plea or demurrer shall be thereafter received; but the complainant's petition may be taken as confessed, and the court shall proceed to decree thereon; or in their discretion, they may receive an answer on affidavit of merits, and that such plea or demurrer was not filed for the purpose of delay. Plea, &c. overruled, decree pro confesso, or answer received on affidavit of merits.

Sec. 21. If the plea or demurrer be allowed, the complainant shall pay costs; and if overruled, the defendant shall pay them. Costs on plea, &c. by whom paid.

Sec. 22. The complainant shall file his exceptions, or a replication, within thirty days after the time limited for filing an answer, if such answer be filed in time; or on failure thereof, such cause shall stand for hearing on petition and answer. Replication or exceptions, when to be filed.

Sec. 23. If the exceptions of the complainant be overruled, he shall pay costs to the defendant; and if the defendant's answer be adjudged insufficient, he shall pay costs to the complainant. Costs upon exceptions, by whom paid.

Sec. 24. When an answer shall be adjudged insufficient, the defendant shall file a second or further answer, within thirty days after such adjudication, or within such further time as the court may direct; and on failure thereof, the said petition shall be taken as confessed, and such proceedings be had thereon, as if the first original answer had not been filed within the limited or granted time. Answer insufficient, second shall be filed in thirty days, or decree pro confesso.

Sec. 25. If such second or further answer shall be adjudged insufficient, the defendant shall pay double costs: and in such case further time to answer shall not be allowed; but the said petition shall be taken as confessed, and such proceedings be had thereon, as if the first or original answer had not been filed in due time; or the defendant may be examined upon interrogatories, and committed until he shall answer and pay costs. Second answer insufficient, defendant to pay double costs, and no further time allowed.

Sec. 26. Every defendant may swear or affirm to his answer, before any judge, justice of the peace, master commissioner in chancery, or in any court of record in this State. Before whom defendant may swear to answer.

Sec. 27. Where it is necessary for the defendant to bring a new party before the court, he shall state it in his answer, and insert interrogatories for him to answer; and thereupon a subpoena shall be sent out, and other proceedings be had, as in case of other defendants. How defendant may bring new party before court.

Sec. 28. The defendant in chancery, after he shall have filed his answer, may exhibit interrogatories to the complainant, which shall be answered by him on oath or affirmation; and Defendant may put interrogatories to complainant.

ant, which shall be answered.

such answer shall be evidence in the cause, in the same manner, and to the same effect, as the defendant's answer to the complainant's petition is evidence: and if the complainant shall not answer such interrogatories by the time appointed by the court, he shall be in contempt, and his petition dismissed with costs.

First bill answered before answer to cross bill.

Sec. 29. If a cross petition shall be filed by any defendant, he must put in his answer to the first petition, before the defendant to the cross petition shall be compelled to answer.

Rules, how entered.

Sec. 30. All rules, common or special, by consent of the parties or their counsel, shall be entered of course with the clerk, whether in term time or in vacation.

Amendments.

Sec. 31. All amendments shall be made with or without costs, and on such equitable terms as the court shall direct.

Parties to take notice of filing pleadings.

Sec. 32. Parties to suits in chancery, shall take notice at their peril of the filing of answers, demurrers, pleas, replications, and other pleadings, and of the pronouncing and signing decrees.

On hearing on bill and answer only, answer to be taken as true.

Sec. 33. If a complainant proceed to a hearing, on the petition and answer only, the answer shall be taken to be true in all points; and no evidence shall be received to contradict the same, unless it be matter of record to which the answer refers, and is proveable by the said record.

Replication puts cause at issue.

Sec. 34. Every chancery cause shall be considered at issue on filing a replication, and it shall not be necessary to enter a rule to rejoin in any cause.

Issue of fact may be tried by jury.

Sec. 35. If there be an issue as to any matter of fact, which shall render the intervention of a jury necessary, the courts are hereby authorized to direct an issue for the trial of the same; and the verdict shall be entered of record, and made use of at the hearing of the cause.

Complete record of causes determined, to be made by clerk, and signed by court.

Sec. 36. When any cause in chancery shall be finally determined, the clerk of the court shall enter together in order, the petition, answer, pleadings and exhibits therein referred to, the reports, decretal orders, statement of facts found by a jury, or agreed by the parties, and decree in such cause, in a book to be kept for that purpose, which shall be signed by the court at the next term, as of the day on which such decree was pronounced.

Decrees to operate as judgments at law.

Sec. 37. The decree of either of the said courts sitting in chancery, shall, from the time of their being pronounced, have the force, operation and effect, of a judgment at law.

Decree for a conveyance to operate as a conveyance.

Sec. 38. When a decree shall be made for a conveyance, release, or acquittance, in either of said courts, sitting as a court of chancery, and the party against whom the said decree shall pass, does not comply therewith by the time appointed, then such decree shall be considered and taken in all courts of law and equity, to have the same operation and effect, and be as available, as if the conveyance, release, or acquittance, had been executed conformably to such decree.

Sec. 39. The supreme court, or any judge thereof, and the court of common pleas, or any president judge thereof, shall have power to grant writs of ne exeat, to prevent the departure of any defendant out of this State, until security is given to perform the decree: and writs of ne exeat shall be allowed at the discretion of the supreme court in term time, or any judge thereof in vacation; or of the court of common pleas in term time, or any president judge thereof in vacation, upon petition filed, with an affidavit annexed of the truth of the allegations: and if said writ be granted, the court or judge shall direct to be indorsed thereon, in what amount security shall be given to the complainant.

Writs of ne exeat, how allowed.

Sec. 40. If the defendant shall, by his answer, satisfy the court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged.

When writ may be discharged.

Sec. 41. The supreme court, or any judge thereof, and the court of common pleas, or any president judge thereof, shall have power to grant writs of injunction to stay waste: and either of said courts, or any judge thereof, shall have power to grant writs of injunction, to stay the proceedings before or after judgment, of any of the courts of law.

Injunctions, by whom allowed.

Sec. 42. No injunction shall be allowed by the supreme court, or any judge thereof, to stay proceedings at law, before or after judgment, unless the matter in dispute be of sufficient value to give original jurisdiction to the court of common pleas; and no injunction shall be allowed by the court of common pleas, or any judge thereof, in such cases, unless the matter in dispute be of the value of twenty dollars: and in either case, the petition shall show good cause in equity for such injunction, and be verified by affidavit; and with the allowance, the court or judge shall direct the amount in which security shall be given by the complainant.

When supreme court shall not allow, injunction.

When common pleas shall not.

Petition for injunction must show cause, and be verified.

Sec. 43. No injunction shall operate to stay proceedings at law, before or after judgment, until the party obtaining the same, shall give bond, with sufficient security, to be approved by the clerk of the court, granting such injunction, in the amount required by the court or judge allowing the same, for the payment of all moneys and costs due, or to become due, from the complainant, in such suit or judgment at law, and all moneys and costs which shall be decreed against him, in case such injunction shall be dissolved; and on the execution of the bond as aforesaid, the clerk shall indorse on the subpœna, "Injunction allowed and bail given," and sign his name thereto; and in no case shall it be necessary to issue the writ of injunction.

Injunction operative, bond given.

Condition of bond.

Writ need not issue.

Sec. 44. In all cases where an injunction may be hereafter allowed, to stay proceedings at law, in an action for recovery of money only, upon the dissolution of the injunction, and dismissal of the petition in the court of common pleas, the court shall render a decree in favor of the respondent. (plaintiff at

When injunction staying the collection of money is dissolved what decree rendered.

Penalty of five per cent.

law) for the debt or damages, interest and costs recovered at law; and also, for the interest and costs accruing in chancery, together with five per cent. penalty on the amount of debt or damages, and the interest which may have accrued.

If complainant appeal, and supreme court dissolve injunction, the like decree, and ten per cent penalty.

Sec. 45. If the complainant shall appeal from the decree rendered in the court of common pleas to the supreme court, in any case specified in the foregoing section, and the said injunction shall be dissolved, and petition dismissed in said supreme court, they shall render a decree for the debt or damages, interest and costs, which were recovered at law; also, for the interest and costs, which may have accrued in the court of common pleas, and supreme court, together with ten per cent. penalty on the debt or damages, and interest accrued in favor of the respondent.

When officer has received money on execution, and further proceedings are enjoined, money shall be repaid.

Sec. 46. When a sheriff, or other officer, has received the whole, or any part of the money, for the collection of which, any execution has issued, and the person against whom such execution has issued, his executors or administrators, shall obtain an injunction, to stay the proceedings under such execution, the sheriff, or other officer, shall repay to the person against whom such execution issued, his executors, administrators, or attorney of record, the money so received, or such part thereof as may be enjoined, retaining sufficient to pay the costs, to be collected by the execution: *Provided*, The money has not been paid over to the plaintiff, his attorney of record, or his executors or administrators.

Officer failing to repay, may be amerced.

Sec. 47. If any sheriff, or other officer, shall fail or refuse, on demand made by the complainant, his executors, administrators, or attorney of record, to pay the money so received, or such part thereof as may be enjoined, he shall be amerced, on motion in open court, for the use of the plaintiff, in the same manner that such sheriff, or other officer, would be liable to be amerced for failing to pay over money made on execution: but nothing in this, or the preceding section, shall be so construed as to prevent the court or judge from ordering the money so made, on execution as aforesaid, to be paid into court, or retained in the hands of the officer, until the said injunction shall be dissolved or made perpetual.

But court may order such money to be paid into court, or retained by the officer.

Person disobeying injunction to stay waste, may be attached for contempt.

Sec. 48. If the person against whom an injunction to stay waste, shall be allowed, after the service and notice thereof, shall do, commit, consent, direct, or suffer to be done or committed, any waste or destruction of, or upon the premises, contrary to the injunction, the court, or any judge of the supreme court, or president judge of the court of common pleas, in the recess of the courts, on motion and affidavit, may award an attachment for contempt, to be issued against the person charged with disobedience to, and a breach of, the injunction.

Person thus in contempt, may be fined, and or

Sec. 49. If the person so offending, shall be brought before the court or judge, by virtue of said attachment, and it shall appear to the court or judge, as aforesaid, that such waste or

destruction, hath been done or committed, the said court or judge as aforesaid, may order said defendant, in their discretion, to pay to the clerk of the court, a fine not exceeding two hundred dollars, for the use of the county, and to make immediate restitution to the party injured; or in default thereof, to order such defendant to be committed to close custody, until he shall fully comply with such order, or be otherwise legally discharged.

Sec. 50. The supreme court, or any judge thereof, and the court of common pleas, or any president judge thereof, may allow injunctions in all cases, (other than to stay waste or proceedings at law, as herein are provided for,) where it is usual for courts of equity to interfere by injunction, on petition filed, showing good cause in equity for such injunction, and verified by affidavit; and the court or judge allowing the same, may impose such conditions upon the party obtaining it, as shall seem to them equitable.

Sec. 51. The courts of chancery shall have power to enforce their decrees and orders, by attachment or sequestration; and if necessary, to award and issue such final process against the goods, chattels, lands and tenements, or against the person of any defendant, as may be issued on a judgment rendered in a court of law: and all such process shall be obeyed, executed and returned by the sheriff, or other officer, to whom the same shall be directed, in like manner, and under the same penalties, as are provided in cases of process, issuing from a court of law.

Sec. 52. If any sheriff, or other officer, to whom any writ, process, or order, of either of said courts of chancery, shall be directed or delivered, shall not make return thereof at the day of return, and according to the tenor of such writ, process or order, the same not being stayed, he shall be in contempt, and process of contempt shall, on motion in term time, be issued against him; and the court may order him to pay to the clerk of the court, a fine not exceeding fifty dollars, together with the costs.

Sec. 53. The courts of chancery shall have power to enforce obedience to their process, rules and orders, by process of attachment for contempt; and any person in contempt, may be fined in any sum not exceeding fifty dollars, at discretion, and imprisoned until the said process, rule or order, shall be obeyed and performed, and until the fine imposed for the contempt and the costs, be fully paid.

Sec. 54. The courts of chancery shall have power in all cases, to award and tax costs on equitable principles, at their discretion, except where it is otherwise directed by this, or any other Legislative act: and the payment of such costs, when awarded and taxed, may be enforced by writs of fieri facias, capias ad satisfaciendum, or in any other mode said courts may direct.

Sec. 55. Any person, or the heirs or personal representa-

Appeals from
common pleas to
supreme court,
allowed in chan-
cery as at law

Lien not affected
thereby

Rehearing

Petitions for re-
view must be
within five years

Exception in
case of disability

Petitions for re-
view upon errors
of law, filed as
matter of course
Upon new mat-
ter, by leave of
court

Proceedings on
former decree
may be stayed

Proviso

If not stayed,
former decree
must be complied
with

Decrees against
parties having
no notice except
by publication,
may be opened
within five years
Terms on which
such decree may
be opened

tive of such person, may appeal to the supreme court, from any final sentence or decree, pronounced and made in any cause or suit in chancery, in the court of common pleas, on giving notice and security within the time required by law, in cases of appeals of suits at law; and no lien created by said sentence and decree, on any real estate, shall be vacated or removed by said appeal, but shall remain until the final adjudication of the cause in the supreme court.

Sec. 56. Petitions for re-hearing, shall be signed by counsel, and preferred within thirty days after the making of the order, on the hearing; and the prayer of such petitions shall be allowed or disallowed, at the discretion of any two of the judges of the court of common pleas, or one of the judges of the supreme court, who made the order on the hearing of the case.

Sec. 57. Any person who was a party to a decree of a court of chancery, his heirs, executors or administrators, may file a petition, for a review of the proceedings in which such former decree was rendered, at any time within five years next after rendering such decree, unless the person entitled to such petition for review, was an infant, feme covert, non compos mentis or imprisoned, then within five years after the removal of such disability.

Sec. 58. If the petition for review, be brought upon errors of law appearing in the body of the decree, or proceedings themselves, it may be filed as an original petition in chancery, as a matter of course; but if the petition for review, be brought upon the discovery of new matter, since the hearing on the former decree, it shall only be filed, with the leave of the court to which it is exhibited: in either case the court may, at their discretion, on motion, stay the proceedings on the former decree, until the further order of the court, or until final decree is made on the petition for review: *Provided*, The motion to stay proceedings, be made at the term at which the petition for review is exhibited, and with leave filed; or if filed in vacation, then at the next succeeding term; and if proceedings are decreed to be stayed, the court shall direct security to be given, as in cases of appeals or injunctions to stay proceedings at law.

Sec. 59. If proceedings are not stayed by order of the court, the party against whom such former decree was rendered, shall fully comply therewith, and the court may, if they deem it necessary, require security for costs to be given, on the petition of review.

Sec. 60. Parties against whom a decree has been rendered, without other notice than the publication in the newspaper, as provided for in this act, may, at any time within five years after the date of the decree, have the said decree opened, and be let in to defend and to a hearing; but before the decree shall be opened, the applicants shall give notice to the original complainant, or his representatives, of the intention to make the

application, and shall file a full answer to the original bill, pay all costs, and make an affidavit, that during the pendency of said suit, he or she received no actual notice thereof, in time to appear in court and object to said decree: *Provided*, That the title to any real or personal estate, the subject of the former decree, which, by it, or in consequence of it, shall have passed into the hands of a bona fide purchaser, shall not be affected by any proceedings under this section.

Title of bona fide purchaser not affected thereby

Sec. 61. When any suit in chancery is pending, and either party thereto shall die, the same may be revived for or against the executors, or administrators, heirs, legatees, or devisees, of the deceased intestate or testator, in the same manner as any suit may be revived at law, by or against the executors, administrators, heirs, legatees, or devisees, of any decedent.

Party to suit in chancery dying, suit may be revived as at law

Sec. 62. The supreme court, and court of common pleas, may appoint in each county, such number of persons as they may think necessary, to be master commissioners in chancery, who shall hold their offices for the term of three years, unless removed by the court for good cause: and said commissioners shall have power to take depositions in cases at law and equity; to issue process to compel the attendance of witnesses, which shall be served as other process in chancery; and to do all such other acts of a ministerial nature, commonly performed by masters in chancery: who shall be allowed such fees for taking depositions, as are pointed out by law; and for all other services rendered, such fees as are allowed for similar services, to other officers, or shall be assessed by the court, and taxed in the bill of costs.

Master commissioners may be appointed
Term of office

Their powers and duties

Their fees

Sec. 63. Petitions in chancery, which shall be hereafter filed for the purpose of perpetuating evidence, shall set forth specially the subject matter, relative to which such evidence is to be taken, the names of parties, if known to complainant; but if not known, then such general description as he may be able to give of the person, as heir, devisee, alienee, or otherwise, as the representative of some person, who shall be named in such petitions: and the defendants in such petitions shall be brought into court in the same manner as in other cases.

Bills to perpetuate testimony, what they shall contain

Defendant brought in as in other cases

Sec. 64. The complainant, before he takes any evidence, under any order which may be made in such case, shall file in court the names of the witnesses, and the interrogatories to be propounded to each witness; and where actual notice has not been served on the defendant, the court, or one of the judges thereof in vacation, shall appoint some attorney of the court, to examine the petition and interrogatories, and to file cross interrogatories thereto, which shall be forwarded with the interrogatories to the officer taking the depositions, and these shall be fully answered to by such witness: and no question, other than those filed in court, shall be put to such witness, nor any statement be received from him, which is not responsive to some one of the interrogatories: and the attorney filing the

Complainant shall file the names of witnesses and interrogatories
And if defendant be not notified, court may appoint attorney to file cross interrogatories

Attorney's fees to be taxed in cost bill cross interrogatories, by order of the court, shall be allowed a reasonable fee therefor, to be taxed in the bill of costs.

By whom such depositions may be taken Sec. 65. Such deposition shall be taken before one of the master commissioners in this State, or before some person specially authorized by a *dedimus potestatem* to take the same, and when taken, shall be returned to the court in which such petition is pending; and if the court shall be satisfied, that the depositions have been properly taken, and conformably to the provisions of this act, they shall order them to be made a part of the record in the cause: and such original deposition, or a certified copy thereof, shall be evidence in any suit, which may be thereafter litigated between the parties to such petition, or their privies, relative to the property which shall have been the subject matter thereof: *Provided*, The deponent cannot be obtained to testify in such subsequent suit or litigation.

To be recorded and made evidence between parties and privies touching said subject matter
Proviso

Evidence of aged, infirm, or going witness may be taken *de bene esse* by order of court or judge

In effect

Costs to be paid by complainant

Acts repealed

Saving clause

Sec. 66. If at any time, after filing such petition as aforesaid, the complainant shall prove by his own oath or otherwise, to the satisfaction of the court, or any judge thereof, in vacation, that any material witness is old, infirm, or about to leave the State, whereby he will be in danger of losing the evidence of such witness, by death, inability to testify or removal, the court, or such judge in vacation, may make and cause to be filed among the records in such cause, an order for taking the deposition of such aged, infirm, or going witness, *de bene esse*; and in case of the death or removal of such witness, before the defendant can be brought into court as above directed, such deposition shall be holden good and valid, as if the same had been taken by order of the court, after service of notice, or notice duly published.

Sec. 67. All such petitions shall be filed, and proceedings therein had, at the proper costs of the complainant.

Sec. 68. The acts entitled "An act directing the mode of proceeding in chancery," passed 22d day of February, 1824, and the act to amend the act entitled "An Act directing the mode of proceeding in chancery," passed the 11th day of February, 1828, and the act to amend an act entitled "An Act defining the mode of proceeding in chancery," passed the 10th day of January, 1829, are hereby repealed: *Provided*, That all causes now pending and undetermined, and all petitions and proceedings which may be commenced before the taking effect of this act, shall be prosecuted and determined by the provisions of the foregoing acts; and all proceedings had, and decrees pronounced, shall be held valid and carried into effect by the provisions of the above recited acts.

This act to take effect from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14th, 1831.

AN ACT to establish a Court in Bank, and to regulate its practice.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of all the judges of the supreme court, to meet annually in the town of Columbus, on the second Monday of January, to hold a court in bank, for the final adjudication of all such questions of law as may have been reserved in any county, for decision, at the said term, as hereinafter provided.

Court in Bank,
when and where
held

Sec. 2. That any three of the said judges shall constitute a quorum for the transaction of business; but if a quorum should fail to attend at the time and place appointed, then any one of the said judges, or in case of the failure of all the judges to attend, then the crier of the court shall have power, and it is hereby made his duty, to adjourn the said court, from day to day, until a quorum shall convene.

Three judges a
quorum
For want of a
quorum, ad-
journment from
day to day

Sec. 3. That if no quorum shall convene in ten days after the commencement of the term appointed by law, then, and in such case, all questions or other matters reserved for decision of the said term, shall stand continued to the next term of the said court, to be holden under the provisions of this act.

If no quorum in
ten days, all
causes continued

Sec. 4. That when any important or difficult question shall arise in any proceeding at law or equity, pending before the supreme court in any county, the judges thereof may reserve the same, and all other questions as to which the judges may be divided in opinion, shall, on motion of either party or his counsel, be reserved for decision, at the term of the court in bank, next thereafter, to be holden as aforesaid.

What questions
reserved for de-
cision in said
court

Sec. 5. That the said court in bank shall have power to continue any question or matter reserved as aforesaid, whenever, in their opinion, such continuance ought to be granted.

Continuances
may be granted

Sec. 6. That whenever a question shall be reserved as aforesaid, the arguments of counsel may be made in writing, and transmitted to the judges, at their session in Columbus: but such court may, nevertheless, require oral arguments of all questions reserved as aforesaid, in cases where counsel are present, and in attendance upon the court; and the court shall hear oral arguments, in all cases where the parties or their counsel shall request it.

Arguments of
counsel may be
in writing, or
oral

When oral argu-
ments shall be
heard

Sec. 7. That whenever the court shall hear oral arguments, the judges shall sit in the court house, in the town of Columbus.

To sit in court
house to hear
arguments

Sec. 8. That the court in bank shall cause its decisions, in each case, to be reduced to writing, and transmitted to the clerk of the supreme court of the county in which such question was reserved; who shall enter the same on the journal of the said court: and such proceedings shall thereupon be had, as if such decision had been made in the said county.

Decisions to be
transmitted to
county in which
cause was reserved

Sec. 9. That the said court in bank shall have power to prescribe rules for the reservation of all questions, and for the practice

Court may pre-
scribe rules of
practice

transmitting of cases from the supreme court in the respective counties, to the court hereby established; and all such other rules as may be necessary and proper to regulate its practice.

To appoint reporter
His term of service and duties

Sec. 10. That the said court shall appoint a reporter, whose term of service shall expire every five years, whose duty it shall be to attend the session of the said court, and to report its decisions, together with such other important decisions as he may be directed to report, and to cause the same to be published, as soon as may be conveniently done, after each term of the said court: *Provided*, That no arguments of counsel shall be published with said reports, other than a brief containing a reference to the points made, and authorities cited and relied on by such counsel, unless specially directed by the court.

Arguments of counsel not published unless directed by court

Salary of reporter

Sec. 11. That the reporter shall receive for his services, annually, a sum not exceeding three hundred dollars; to be allowed and certified by said judges, and paid out of the State treasury, on the order of the auditor of State.

Secretary to subscribe for 100 copies of reports
Provide as to price

Sec. 12. That the secretary of State shall subscribe, on behalf of the State, for one hundred copies of said reports, subject to the disposal of the General Assembly: *Provided*, That the subscription price to the State shall not exceed one cent for each page, of the size of Johnson's New York Term Reports.

Court may appoint clerk and crier

Sec. 13. That the said court shall have power, and they are hereby authorized, to appoint a clerk and a crier, whenever they shall deem it necessary.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 10, 1831.

AN ACT relating to Juries.

100 jurors annually selected in each county

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That one hundred and eight judicious persons, having the qualifications of electors, shall be annually selected in each county, to serve as grand and petit jurors the ensuing year.

Number for each township ascertained by clerk of common pleas on first Monday of September

Sec. 2. That the clerks of the courts of common pleas, in their respective counties, shall, on the first Monday of September next, and on the first Monday of September annually thereafter, cause the proportion of jurors to be ascertained from the number of white male inhabitants of the age of twenty-one years, in their respective townships: and shall make, in writing, a statement of the number of jurors apportioned to each township, and shall deliver the same to the sheriff: and

the sheriff, at the time he gives public notice of the general election to be holden on the second Tuesday of October, shall insert a clause in his notification, to be set up at the place of holding the election, in the several townships of his county, giving the trustees notice of the number of persons to be returned as jurors from such township.

Sec. 3. That the trustees of each township shall, on the second Tuesday of October next, and on the second Tuesday of October annually thereafter, select, of good, judicious persons, having the qualifications of electors, their apportionment of persons to be returned as jurors; and shall make a list thereof and deliver the same to the trustee or judge of election, whose duty it shall be to return to said clerk of the court the poll book of the election to be holden on said second Tuesday of October; and it shall be the duty of the trustee or judge of election, (as the case may be) to deliver said list of jurors to the said clerk of the court, at the same time he shall return said poll book to said clerk of the court.

Sec. 4. That the respective clerks of the courts of common pleas, shall write the names of the persons so selected upon separate pieces of paper, and put them into a box to be by him provided at the expense of the county; and the said clerk shall, at least thirty days previous to the sitting of the said court of common pleas in said county, in the presence of the sheriff of said county, (the sheriff having first shook the box so as to mix the ballots on which the names are written,) shall proceed to draw twenty-seven ballots; the first fifteen of whom shall be summoned as grand jurors, and the remaining twelve shall be summoned as petit jurors: and the said clerk shall forthwith issue a venire facias to the sheriff, commanding him to summon the persons whose names were drawn as aforesaid, to attend as jurors at the seat of justice of said county, on the first day of the next term of the court of common pleas to be holden therein, at ten o'clock, A. M.

Sec. 5. That the said clerk shall in like manner, at least thirty days previous to the sitting of the supreme court in any county, in the presence of the sheriff of said county, as heretofore directed, draw out of the box in which are contained the names of the persons selected as aforesaid, twelve persons, and shall forthwith deposit in the office of the clerk of the supreme court of said county, a list of the names so drawn; and the clerk of the supreme court, immediately upon the receipt of the names so deposited, shall issue a venire facias to the sheriff, commanding him to summons the persons drawn as aforesaid, to attend as jurors at the seat of justice of said county, on the first day of the supreme court next to be holden therein.

Sec. 6. That the sheriff in either case, receiving such venire facias, shall, at least ten days before the sitting of said court, summon such persons by reading the same in their presence, or leaving at their usual place of abode, a note or memorandum in

Notice to trustees, when and how given

Trustees of township to select jurors on second Tuesday of October

List to be returned to clerk of common pleas with poll book

Names of jurors to be put into a box

Time and manner of drawing jury for common pleas

Venire to issue

Time and manner of drawing jury for supreme court

Clerk of supreme court to issue venire

Service of venire

the words following, to wit: I am commanded to summon you , to appear before the court of common pleas, or supreme court, (as the case may be) to be holden in , on the day of next, to serve as a grand or petit juror, (as the case may be;) and shall indorse on the venire facias the names of the jurors, and the time when summoned, and return the same to the clerk of said court, on the first day of its session.

84 petit jurors
for Hamilton
county, and two
juries to be
drawn for each
term :

Sec. 7. That in the county of Hamilton, there shall be eighty-four judicious persons having the qualifications of electors, annually selected to serve as petit jurors: and the clerk of the court of common pleas shall, at the times, and in the manner above directed, draw two juries for each term, of said court; one of which juries shall be summoned to attend on the first day of the term, and the other on the first day of the third week of the term, to serve respectively as jurors in said court.

If juror die or re-
move, his name
thrown aside

Sec. 8. That if any person, selected a juror as aforesaid, shall die, or remove out of the township, before the time of drawing for jurymen of any court, where such person's name shall be drawn out, it shall be thrown aside and another name taken in lieu thereof; and if, by reason of sickness or absence out of the county, before receiving such summons, or other sufficient excuse accepted by the court, any juror, summoned as aforesaid, shall not serve at the court to which he is summoned, his name shall be returned to the box and shall remain there, until drawn out at some at some subsequent drawing for jurors, when he shall serve, if no disability prevent: and at every annual selection for jurors, if there be any name undrawn in the box, the said trustees shall select so many persons to serve as jurors as will make up the number to be selected in each township; and in case there should not, by reason of challenge or otherwise, be a sufficient number of jurors present to make up the pannel, the sheriff shall summon a sufficient number of talesmen to make up the deficient number: and at the close of any court, the names of all such persons as shall have served on the jury at that term, shall be taken out of the box and destroyed.

Juror drawn
and excused
from serving, his
name returned
to the box

Deficient pannel
may be filled
with talesmen

Sec. 9. That when a sufficient number of grand jurors shall not appear, who shall have been drawn and summoned agreeably to this act, before either of the courts at their stated term; or, if it should so happen that all the grand jurors, summoned as aforesaid, shall fail to attend, it shall, and may be lawful for the court, in either case, to order the sheriff, or other officer, to summon from among the bystanders, or neighboring citizens, so many good and lawful men as are necessary to form or complete the pannel of the grand jury.

Pannel of grand
jury may be fil-
led with tales-
men

Grand juror may
be discharged for
misbehavior, or

Sec. 10. That any grand juror may be discharged by the court for misbehavior, or on the challenge of the prosecuting attorney in behalf of the State, on good cause shown; and if any person, not having the qualifications herein before speci-

fied, shall be impaneled as a grand or petit juror, it shall be on challenge of a good cause or challenge to such juror, who shall be discharged on the same being verified according to law, or on his own oath or affirmation in support thereof. prosecuting attorney

Sec. 11. That an oath or affirmation, in the following words, shall be administered to the foreman of the grand jury: "Sav- Form of oath to ing yourself and fellow jurors, you, as foreman of this grand in- foreman of grand quest, shall diligently inquire, and true presentment make, of all jury such matters and things as shall be given you in charge, or otherwise come to your knowledge, touching the present service: the counsel of the State, your own and your fellows, you shall keep secret unless called on in a court of justice to make disclosures: you shall present no person through malice, hatred, or ill will; nor shall you leave any person unrepresented through fear, favor, or affection, or for any reward or hope thereof; but in all your presentments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding."

Sec. 12. That the following oath or affirmation shall be administered to the other grand jurors: "The same oath which A. B. your foreman, hath now taken before you on his part, you and each of you shall well and truly observe, and keep on your respective parts." The said fifteen persons summoned, and sworn or affirmed as aforesaid, shall be a grand jury, who shall inquire of, and present all murders, felonies and other crimes and misdemeanors whatever, committed within the limits of the county, in and for which they are impaneled and sworn or affirmed: *Provided*, That it shall require twelve of said jurors to agree, before any bill of indictment or presentment shall be found. Duty of grand jury Concurrency of twelve necessary to find a bill

Sec. 13. That in case of sickness, death, discharge, or non-attendance of any grand jurors, after he or they shall be sworn or affirmed, it shall be lawful for the court at their discretion, to cause another or others to be sworn or affirmed, in his or their stead. When grand juror discharged, another sworn in his stead

Sec. 14. That if there shall be impaneled for the trial of any cause, any petit juror who shall have been convicted of any crime, which by law renders him disqualified to serve on a jury; or who has been arbitrator on either side, relating to the same controversy; or who has an interest in the cause; or who has an action depending between him and the party; or who has formerly been a juror in the same cause; or who is the party's master, servant, counsellor, steward, or attorney; or who is subpoenaed in the cause as a witness; or who is akin to either party; he may be challenged for such causes: in either of which cases the same shall be considered as a principal challenge, and the validity thereof be tried by the court: and any petit juror who shall be returned upon the trial of any of the causes herein before specified, against whom no principal cause of challenge can be alledged, may nevertheless be challeng- Causes for which a juror may be challenged

Two may be
challenged per-
emptorily by
each party

ed on suspicion of prejudice against, or partiality for, either party; or for want of a competent knowledge of the English language, or any other cause that may render him at the time an unsuitable juror; and the validity of such challenge shall be determined by the court, and each party may peremptorily challenge two jurors.

The same upon
the trial of an
indictment.

Sec. 15. That every prosecuting attorney, and every defendant upon the trial of an indictment, may challenge peremptorily two of the pannel; and if any person prosecuting on behalf of the State, shall in behalf of the State, challenge any petit juror, except as aforesaid, he shall immediately assign the cause of such challenge, and the truth thereof shall be inquired into, and decided upon in the same manner as the challenge of other persons is by law inquired into and decided.

For what the ar-
ray may be chal-
lenged

Sec. 16. That when a grand or petit jury shall be selected, drawn, or summoned contrary to the provisions of this act; or where the sheriff, or other officer, in executing the writ of venire facias to him directed, shall not have proceeded as hereinbefore prescribed, then, and in either of those cases, the whole array of the jury may be challenged and set aside, and a new venire facias be awarded, returnable forthwith, in the same manner as if the whole number of grand or petit jurors had failed to attend the court, or had been challenged for cause and set aside by the court.

When sheriff is
interested, ve-
nire may issue to
coroner

Sec. 17. That when the sheriff is interested in any cause which now is or hereafter may be pending, in either the supreme court or court of common pleas, the party in interest opposed to that of the sheriff may apply to the court, who, on such application, shall direct a special venire facias to the coroner of the county, commanding him to summon a jury, having the qualifications herein before pointed out, to try such cause; and where both the sheriff and coroner are interested as aforesaid, or in case of the death, resignation, or absence from the county, of both the sheriff and coroner, then, and in either of those cases, the venire facias or other process may be directed to such discreet, disinterested person as the court may name.

When both in-
terested, venire
to issue to such
person as court
may name

In what cases a
jury of by-stand-
ers may be re-
turned

Sec. 18. That when by reason of any pressure of business, the court shall deem it necessary to have two petit juries; or when, by reason of absence, sickness, challenge or otherwise, there be none remaining of the petit jurors selected and summoned as herein before provided, then, and in either of those cases, the supreme court and courts of common pleas, respectively, may order the sheriff or other officer, to return a jury of by-standers, or neighboring citizens, having the qualifications as aforesaid.

Jury may have
view of lands

Sec. 19. That it shall be lawful for the supreme court or court of common pleas, in which any action is or shall be depending, or where it shall appear to the court to be proper or necessary that the jurors who are to try the issue in said action should have a view of the messuages, lands, or place in question, in order to their better understanding the evidence that

may be given on the trial of such issue, to order a special writ Distringas to issue for that purpose of distringas, or habeas corpora juratorum, to issue, by which the sheriff or other officer to whom the same shall be directed, shall be commanded to have six or more of the first twelve jurors named in the pannel to which such writ is annexed, at the place in question, who, then and there, shall have the matters in question shown to them by the two persons named in said writ, to be appointed by the court; and the sheriff or other officer who is to execute said writ, shall, by a special return on the same, certify under his hand that the view hath View to be certified by sheriff been made according to the command of said writ.

Sec. 20. That the expenses of taking the said view shall be taxed in the bill of costs, and that no evidence shall be given on either side at the time of taking thereof: *Provided always*, Costs of view to be taxed in bill of costs That in case no view shall be had, or if a view shall be had by Provided any of said jurors, whether they shall happen to be any of the six or more of the twelve jurors who shall first be named in said writ, or not, yet the said trial shall proceed; and no objection shall be made on either side for want of a view, or for that it was not had by any particular number of the jurors named in said writ, or for want of a proper return to said writ.

Sec. 21. That it shall be lawful for the supreme court and courts of common pleas, respectively, on motion on behalf of Struck jury the State, or of any prosecutor or defendant, in any indictment, or of any plaintiff, demandant, avowant, tenant or defendant, in any action or suit depending, or to be depending, before them, and triable by a jury of twelve men, to order a jury to be struck for the trial thereof: but this provision shall not extend to any indictment for any offence where the party is entitled to challenge peremptorily, or without cause shown, more than two.

Sec. 22. That whenever a struck jury shall be ordered by the supreme court or court of common pleas, the party applying Manner of striking a jury for such struck jury shall give eight days' previous notice to the opposite party, and to the clerk of said court, of the time of striking such jury; at which time the clerk of said court shall attend at his office, and shall, in the presence of the parties, or such of them as shall attend for that purpose, select from the number of persons qualified to serve as jurors within the county, forty such persons as he shall think most indifferent between the parties, and best qualified to try such cause: and then the party applying, his agent or attorney, shall first strike one of the names; and then the opposite party, his agent or attorney, another; and so alternately, until each shall have struck out twelve: but if such opposite party shall not attend to such striking, or any person on his behalf, then the said clerk shall strike for the party not attending; and when each shall have struck out twelve as aforesaid, the clerk of said court

List of struck jury to be annexed to venire

shall make a fair copy of the names of the remaining sixteen persons, and certify the same, under his hand, to be the list of jurors struck as aforesaid, for the trial of such cause or issue; which list shall be delivered to the sheriff or other officer, together with the venire facias: and such sheriff or other officer, shall thereupon annex the same list to such venire, and summon them according to the command of said writ; and upon the trial of the said cause, the jury so struck shall be called as they stand upon the pannel; and the first twelve of them who shall appear, and are not challenged, or shall be found duly qualified and indifferent, shall be the jury, and sworn to try said cause.

When the clerk is interested, court to name persons to strike a jury

Sec. 23. That if the clerk of such court shall be interested in the cause, or related to either of the parties; or if it shall appear probable to the court that he is not indifferent between them; then, in every such case, the court shall nominate two proper persons who are indifferent between the parties, to strike the jury, who shall do and perform every thing required to be done by such clerk, relating to the striking of such jury: and, in all cases, the day appointed for striking such jury, shall be at least thirty days previous to the sitting of the court.

Jury to be struck 30 days before court

Costs of struck jury, by whom paid

Sec. 24. That the party applying for such struck jury, shall pay the fees for striking the same, and one dollar per day for each juror so attending; and shall not have any allowance therefor in the taxation of costs, unless the court shall be of opinion that the cause required such special jury; in which case, the extraordinary expense shall be taxed in the bill of costs.

Jury may give special verdict

Sec. 25. That no jury shall, in any case, be compelled to give a general verdict, so that they find a special verdict, and show the truth of the fact, and require the aid of the court; but if of their own will they give a general verdict, the same shall be received.

No compensation for duties under this act

Sec. 26. That the sheriff and trustees, or judges of election, (as the case may be) shall not receive any compensation for the performance of the duties required by the provisions of this act, other than what are now allowed by law for notifying and attending elections, and making returns thereof.

Penalty for neglect of duty under this act

Sec. 27. That if either of the officers named in this act, shall neglect or refuse to perform any of the duties herein required, according to the true intent and meaning hereof, he shall, on conviction thereof before any court of competent jurisdiction, be fined in a sum not exceeding fifty dollars; which shall be collected as other fines are collected, and paid into the county treasury.

Acts repealed

Sec. 28. That the act relating to juries, passed January ninth, eighteen hundred and twenty-four, and the act amendatory thereto, entitled "An act relating to juries," passed February eleventh, eighteen hundred and twenty-eight, be, and they are hereby, repealed.

This act shall take effect, and be in force, from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
 SAMUEL R. MILLER,
Speaker of the Senate.

February 9, 1831.

AN ACT regulating Judgments and Executions.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That lands, tenements, goods and chattels, shall be sub-^{Lands, goods, &c. subject to the payment of debts}ject to the payment of debts, and shall be liable to be taken in execution and sold, as hereinafter provided.

Sec. 2. That the lands and tenements of the debtor shall be bound for the satisfaction of any judgment against such debtor, from the first day of the term at which judgment shall be rendered, in all cases where such land lies within the county where the judgment is entered; and all other lands, as well as goods and chattels, of the debtor, shall be bound from the time they shall be seized in execution.^{Lien of judgments on lands, goods, etc}

Sec. 3. That the writ of fieri facias issuing from any court of record in this State, shall command the officer to whom it is directed, that of the goods and chattels of the debtor he cause to be made the money specified in the writ; and, for want of goods and chattels, he cause the same to be made of the lands and tenements of the debtor: and the exact amount of the debt, damages, and costs, for which the judgment is entered, shall be indorsed on the execution.^{Command of fieri facias}
^{Amount of debt, etc. to be indorsed thereon}

Sec. 4. That when two or more writs of execution against the same debtor, shall be sued out during the term in which judgment was rendered, or within ten days thereafter, and when two or more writs of execution against the same debtor, shall be delivered to the officer on the same day, no preference shall be given to either of such writs; but if a sufficient sum of money is not made to satisfy all executions, the amount made shall be distributed to the several creditors in proportion to the amount of their respective demands: in all other cases, the writ of execution first delivered to the officer, shall be first satisfied; and it shall be the duty of the officer to indorse on every writ of execution, the time when he received the same: *Provided,* That nothing herein contained, shall be so construed as to affect any preferable lien, which one or more of the judgments, on which such execution issued, may have, on the lands of the judgment debtor.^{In what cases no preference shall be given to executions}
^{In other cases execution first delivered first satisfied}
^{Proviso as to lien on lands}

Sec. 5. That the officer to whom a writ of execution is delivered, shall proceed immediately to levy the same upon the^{Goods and chattels to be first}

goods and chattels of the debtor; but if no goods and chattels can be found, the officer shall indorse on the writ of execution, "no goods," and forthwith levy the writ of execution upon the lands and tenements of the debtor, which may be liable, under this act, to satisfy the judgment upon which the writ of execution issued.

Sec. 6. That if the officer, by virtue of any writ of fieri facias, issued from any court of record in this State, shall levy the same on any goods and chattels claimed by any person other than the defendant, it shall be the duty of said officer forthwith to give notice in writing to some justice of the peace of the county, in which shall be set forth the names of the plaintiff and defendant, together with the name of the claimant; and, at the same time, he shall furnish the said justice of the peace with a schedule of the property claimed: and it shall be the duty of such justice of the peace, immediately upon the receipt of such notice and schedule, to make an entry of the same on his docket, and issue a writ of venire facias or summons, directed to the sheriff or any constable of the county, commanding him to summon five disinterested men, having the qualifications of electors, who shall be named in said venire facias, or summons, to appear before him the said justice, at the time and place therein mentioned, which time shall not be more than three days after the date of said writ, to try and determine the right of the claimant to the property in controversy: and it shall be the duty of the claimant to give two days' notice in writing, to the plaintiff, or other party, for whose benefit such execution was issued and levied as aforesaid, his agent or attorney, if within the county, of the time and place of such trial; and he shall, moreover, prove, to the satisfaction of said justice, that such notice was given, or that the same could not be given by reason of the absence of the party, his agent or attorney, as aforesaid.

Sec. 7. That the jury summoned as aforesaid, shall be sworn or affirmed, to try and determine the right of the claimant to the property in controversy, and a true verdict to give, according to evidence; and if the said jury shall find the right to said goods and chattels, or any part thereof, to be in the claimant, the said justice shall render judgment, upon such finding of the jury, for the claimant, that he recover his costs against the plaintiff in execution, or other party to the same, for whose benefit such execution issued as aforesaid, and also that he have restitution of said goods and chattels, or any part thereof, according to the finding of the jury as aforesaid: but if the right of said goods and chattels, and every part thereof, shall not be vested in the claimant, according to the finding of said jury, then the said justice shall render judgment on such finding, in favor of the plaintiff in execution, or other party, for whose benefit the same was issued and levied as aforesaid against said claimant, for costs, and award execution thereon:

taken, for want
thereof, lands to
be levied on

When goods and
chattels levied
on, are claimed
by any person
other than the
defendant, how
to proceed

Oath of jury

Duty of justice in
rendering judgment
after verdict

and it shall and may be lawful for said justice of the peace, in the taxation of costs accruing by reason of such claim and trial as aforesaid, to allow each juror summoned and sworn as aforesaid, the sum of fifty cents; and for the sheriff, constable, or other officer and witnesses, and for himself, he shall tax such fees as are allowed by law to each respectively, for like service rendered in other cases: *Provided*, That such judgment for the claimant as aforesaid, shall be a justification to the officer in returning "nulla bona" to the writ of execution, by virtue of which the levy had been made as to such part of the goods and chattels as were found to belong to such claimant.

Fees of officers as in other cases

Proviso as to the return of the officer

Sec. 8. That in all cases when a sheriff, coroner or other officer, shall, by virtue of an execution, levy upon any goods and chattels which shall remain upon his hands unsold, for want of bidders, for the want of time to advertise and sell, or any other reasonable cause, the sheriff, coroner or other officer may, for his own security, take of the defendant a bond, with security, in such sum as he may deem sufficient, conditioned that the said property shall be delivered to the sheriff, coroner or other officer, holding an execution for the sale of the same, at the time and place appointed by said officer, either by notice given in writing to said defendant in execution, or by advertisement published in a newspaper printed in the county, naming therein the day and place of sale; but if the defendant shall fail to deliver the goods and chattels at the time and place mentioned in the notice to him given, or pay to the officer holding the execution the full value of said goods and chattels, or the amount of said debt and costs, the condition of the said bond given as aforesaid, shall be considered as broken, and may be proceeded on as in other cases.

When goods levied on remain unsold, officer may take bond for their delivery

A failure to deliver, shall be a forfeiture of the bond

Sec. 9. That the officer who levies upon goods and chattels by virtue of any execution issued by any court of record, before he proceeds to sell the same, shall cause public notice to be given of the time and place of sale, for at least ten days before the day of sale; which notice shall be given by advertisement published in some newspaper printed in the county, or in case no newspaper be printed therein, by setting up advertisements in five public places in the county; two of which advertisements shall be put up in the township where the sale is to be held: and where goods and chattels levied upon, cannot be sold for want of bidders, the officer making return that goods and chattels remain unsold for want of bidders, shall annex to the execution a true and perfect inventory of such goods and chattels; and the plaintiff in such execution, may thereupon sue out his writ of venditioni exponas: but such goods and chattels shall not be sold, unless the time and place of sale be advertised, as hereinbefore provided.

What notice shall be given previous to the sale of goods on execution

When goods remain unsold, an inventory thereof to be returned with the execution, and vendi may issue

Sec. 10. That if execution be levied upon lands and tencements, the officer levying such execution shall call an inquest of three disinterested freeholders, who shall be resident within

Lands to be appraised before sale, by three freeholders

the county where the lands taken in execution are situate, and administer to them an oath or affirmation, impartially to appraise the estate so levied on; and the said freeholders shall return to the said officer, under their hands and seals, an estimate of the real value in money, of said estate, upon actual view of the premises, forthwith after such view.

Copy of app-
raisalment to be
deposited with
clerk

Sec. 11. That the officer receiving such return, shall forthwith deposit a copy thereof with the clerk of the court from which such writ issued, and immediately advertise and sell such real estate, agreeably to the provisions of this act.

Lien of judg-
ment restricted

Sec. 12. That if upon such return as aforesaid, it shall appear by the inquisition, that two thirds of the appraised value of such lands and tenements so levied upon, is sufficient to satisfy the execution, with costs, the judgment on which such execution issued shall not operate as a lien on the residue of the debtor's estate, to the prejudice of any other bona-fide judgment cred-

Lands not to be
sold for less than
two thirds of ap-
praisalment
Provido in favor
of the State

itor: *Provided*, That no tract of land shall be sold for less than two thirds of the appraised and returned value of the inquest: *And provided also*, That nothing in this section contained, shall in any wise extend to affect the sale of lands by the State, for any debt or taxes due thereto; but all lands in this State, the property of individuals who may be indebted to the State for any debt or taxes, or in any other manner, except for loans heretofore authorized by the Legislature, shall be sold without valuation, for the discharge of such debt or taxes, agreeably to the laws of this State, in such case made and provided.

Property of cer-
tain officers to
be sold without
valuation

Sec. 13. That if the property of any clerk, sheriff, coroner, justice of the peace, constable, or any collector of State, county, town or township tax, shall be levied on for, or on account of, any moneys that now is, or may hereafter be by them, collected or received in their official capacity, the property so levied on shall be sold without valuation, to the highest bidder, any thing in this act to the contrary notwithstanding.

What notice of
the sale of lands
to be given, and
how

Sec. 14. That lands and tenements taken in execution, shall not be sold until the officer cause public notice of the time and place of sale to be given, for at least thirty days before the day of sale, by advertisement in some newspaper printed in the county, or in case no newspaper be printed in the county, then in some newspaper in general circulation therein, and by putting up an advertisement upon the court house door, and in five other public places in the county, two of which shall be put up in the township where such lands and tenements lie; and all sales made without such advertisement, shall be set aside by the court to which the execution is returnable, on motion.

Proceedings of
the officer to be
examined by the
court, and if
court ordered, to
make a deed

Sec. 15. That if the court to which any writ of execution shall be returned by the officer, for the satisfaction of which any lands and tenements may have been sold, shall, after having carefully examined the proceedings of such officer, be satisfied that the sale has in all respects been made in conformity to the provisions of this act, they shall direct their clerk to make an

entry thereof on the journal, that the court are satisfied of the legality of such sale, and an order that the said officer make to the purchaser a deed for such lands and tenements; and the officer, on making such sale, may retain the purchase money in his hands until the court shall have examined his proceedings as aforesaid, when he shall pay the same over to the person entitled thereto, agreeably to the order of the court.

Officer may retain purchase money, till sale confirmed

Sec. 16. That the sheriff or other officer, who, by such writ or writs of execution, shall sell the said lands and tenements, so levied upon, or any part thereof, shall make to the purchaser or purchasers thereof, as good and sufficient a deed of conveyance, for the lands and tenements so sold, as the person or persons against whom such writ or writs of execution were issued, might or could have made for the same, at, or any time after, the said lands became liable to the said judgment; which deed shall be prima facie evidence of the legality of such sale, and the proceedings therein, until the contrary be proved, and shall vest in the purchaser, as good and as perfect an estate, in the premises therein mentioned, as was vested in the party, at, or after the time when said lands and tenements became liable to the satisfaction of said judgment: and the said deed of conveyance to be made by the sheriff or other officer, shall recite the execution or executions, or the substance thereof, and the names of the parties, the kind of action, the amount and date of term of rendition of each judgment, by virtue whereof, the said land and tenements were sold as aforesaid; and shall be acknowledged or proved and recorded, as is, or may be provided by law, to perfect the conveyance of real estate in other cases.

Sheriff to make deed for land sold on execution

Effect of the deed

Recitals in the deed

Sec. 17. That the officer who levies upon goods and chattels, or lands and tenements, or who is charged with the duty of selling the land, by virtue of any writ of execution issued from a court of record in this State, before he proceeds to give notice of the sale thereof, by advertisement published in any newspaper, according to the preceding sections of this act, may refuse to publish a notice as aforesaid, until the party for whose benefit such execution issued, his agent or attorney, shall advance to such officer, so much money as will be sufficient to discharge the fees of the printer, for publishing such notice as aforesaid.

Officer may refuse to publish notice, until the printer's fees are advanced

Sec. 18. That all sales of lands or tenements, by virtue of this act, shall be held at the court house, in the county in which such lands and tenements are situated: *Provided*, That no sheriff, or other officer conducting the sale of property, either personal or real, nor any appraiser of such property, shall either directly or indirectly purchase the same; and every purchase so made, shall be considered fraudulent and void.

Sales of land to be held at the court house

Sheriffs and appraisers, shall not purchase

Sec. 19. That in all cases where two or more executions shall be put into the hands of any sheriff or other officer, and it shall be necessary to levy on real estate, to satisfy the same,

Creditors may have executions levied on separate

rate parcels of
real estate.

agreeably to the provisions of this act, and either of the judgment creditors in whose favor one or more of said executions is issued, shall require of the sheriff or other officer, to make a separate levy to satisfy his execution or executions, it shall be the duty of the sheriff or other officer, to levy said executions, or so many thereof, as may be required, on separate parcels of the real property of the judgment debtor or debtors; giving to the officer making the levy on behalf of the creditor, whose execution may by this act be entitled to a preference, the choice of such part of the real property of the judgment debtor or debtors, as will be sufficient, at two thirds of the appraised value, to satisfy the same: and in all cases where two or more executions, which, by the provisions of this act, are entitled to no preference over each other, are put into the hands of the same officer, and such officer may be required to levy the same

Duty of the offi-
cer in making
such sales

on real property, it shall be the duty of the sheriff or other officer, when so required, to levy the same on separate parcels of the real property of the judgment debtor or debtors, when, in the opinion of the appraisers, the same may be divided without material injury; and if the real property of said debtors will not be sufficient, at two thirds of its appraised value, to satisfy all the executions chargeable thereon, such part of said real property, shall be levied on to satisfy each execution, as will bear the same proportion in value to the whole of said real property, as the amount due on the execution, bears to the amount of all the executions chargeable thereon, as near as may be, according to the value of each separate parcel of said real property, as assessed by the freeholders, agreeably to the preceding sections of this act.

Successors of
sheriffs may
make deeds for
lands sold by
predecessor

Sec. 20. That if the term of service of the sheriff or other officer, who hath made, or shall hereafter make, sale of any lands and tenements, by virtue of an execution against the same, shall expire; or if the sheriff or other officer, shall be absent, or be rendered unable, by death or otherwise, to make a deed of conveyance for the same; it shall be lawful for any succeeding sheriff or other officer, on receiving a certificate from the court from which execution issued for the sale of the said lands and tenements, signed by the clerk, by order of said court, setting forth that sufficient proof hath been made to said court, that such sale was fairly and legally made; and, on tender of the purchase money, or if the purchase money, or any part thereof, be paid, then, on proof of such payment and tender of the balance, if any there be, to sign, seal and deliver to the said purchaser or purchasers, or his or their legal representatives, a deed of conveyance of the said land and tenements so sold; which deed shall be as good and valid in law, and have the same effect, as if the sheriff or other officer, who made the sale, had executed the same.

Sec. 21. That if on any sale made as aforesaid, there shall remain an overplus of money in the hands of the sheriff or other

officer, after satisfying the writ or writs of execution, with interest and costs, then the said sheriff or other officer, shall pay over to the defendant in execution, or his legal representative, such overplus, on demand. Overplus money to be paid to defendant

Sec. 22. That if any judgment or judgments, in satisfaction of which any lands or tenements belonging to the party, hath or shall be sold, shall at any time thereafter be reversed, such reversal shall not affect or defeat the title to the purchaser or purchasers; but, in such case, restitution shall be made of the moneys, by the judgment creditor, for which such lands or tenements were sold, with lawful interest from the day of sale. Reversal of judgment, not to affect the title of purchaser

Sec. 23. That no judgment heretofore rendered, or which hereafter may be rendered, on which execution shall not have been taken out and levied, before the expiration of one year next after the rendition of such judgment, shall operate as a lien on the estate of any debtor, to the prejudice of any other bona fide judgment creditor; but in all cases where judgment has been, or may be, rendered in the supreme court, and a special mandate awarded to the court of common pleas, to carry the same into execution, the lien of the judgment creditor shall continue for one year after the first day of the term of the court of common pleas, to which such mandate may be directed: *Provided*, That nothing in this section contained, shall be so construed as to defeat the lien of any judgment creditor, who shall fail to take out execution and cause a levy to be made as herein provided, when such failure shall be occasioned by appeal, writ of error, injunction or by a vacancy in the office of sheriff and coroner, or the inability of such officer, until one year after such disability shall be removed; and in all cases where real estate has been, or may hereafter be, taken on execution and appraised, and twice advertised and offered for sale, and shall remain unsold for want of bidders, it shall be the duty of the court from which such execution issued, on motion of the plaintiff, to set aside such appraisement, and order a new appraisement to be made, or to set aside such levy and appraisement, and award a new execution to issue, as the case may require. Judgment to lose its preference, if execution be not levied in one year
Exception
New appraisement, when allowed

Sec. 24. That the sheriff or other officer, to whom any writ of execution shall be directed, shall return such writ to the court to which the same is returnable, on or before the second day of the term to which such writ is made returnable: *Provided*, That all executions issued by the court of common pleas for the county of Hamilton, within twenty days prior to the commencement of any term, may be returned on or before the third Monday of said term. Executions when to be returned
Provided as to Hamilton county

Sec. 25. That in all cases where a *capias ad satisfaciendum* may issue from the court of common pleas, or supreme court, in any county in this State, directed to the sheriff, (or other officer discharging the duties of sheriff,) in any other county within this State, the sheriff or other officer receiving such writ, shall serve the same on the body of the defendant or de- Can be issued to another county, how executed

defendants named therein, or such of them as may be found in his county, and convey him or them so taken forthwith to the jail of the county from whence the writ issued; for which he shall be entitled to the fees that are allowed by law.

Judgment
against principal
and surety, how
entered.

Sec. 26. That in all cases where judgment is rendered in any court of record within this State, upon any bond, sealed bill, promissory note, or other instrument of writing, in which two or more persons are jointly, or jointly and severally held and bound, and it shall be made to appear to the court by parole or other testimony, that one or more of said persons so bound, signed the same as security or bail, for his or their co-defendant, it shall be the duty of the clerk of said court, in recording the judgment thereon, to certify which of the defendants is principal debtor, and which are sureties or bail: and the clerk of the court aforesaid, in issuing execution on any such judgment, shall issue execution commanding the sheriff or other officer to cause the money specified in the writ to be made of the goods and chattels, lands and tenements, of the principal debtor; but for want of such sufficient property of the principal debtor, whereof to make the same, then that he cause the same to be made of the goods and chattels, lands and tenements of the security or bail: and in all cases, the property, both personal and real, of the principal debtor, within the jurisdiction of the court, shall be exhausted, before any of the personal or real property of the surety or bail shall be taken in execution.

Property of principal must be exhausted, before levy on the property of surety

Injunction and appeal bonds not to be used, till execution against principal returned "as goods," &c

Sec. 27. That in all cases where judgment shall be rendered in the supreme court, against the appellant, or an injunction dissolved in the court of common pleas or supreme court, the successful party shall, before he brings suit upon the appeal [or] injunction bond, issue execution against the principal debtor; and if, by the return upon the execution, it shall appear that the principal debtor has not goods and chattels, lands and tenements, sufficient to satisfy the same, the successful party may then commence suit upon the appeal or injunction bond, and take judgment for the penalty thereof; which judgment shall be discharged by the payment of the original judgment or decree, with interest and costs, together with costs of suit on the appeal or injunction bond.

Appraiser's fee

Sec. 28. That each freeholder summoned to appraise real estate under the provisions of this act, shall be allowed, and receive for his services, the sum of fifty cents, for each day he may be engaged in the discharge of the duties enjoined by this act; to be collected on the execution, by virtue of which the property appraised was levied on, if claimed at the time of making the return of such appraisement: and when any freeholder, summoned as aforesaid, shall fail to appear at the time and place appointed by the officer, and discharge his duty as appraiser, he shall, on complaint being made to any justice of the peace of the township in which such delinquent freeholder resides, forfeit and pay the sum of fifty cents for every such

Penalty for neglecting to serve as appraiser

neglect, unless he can render a reasonable excuse; which sum shall be collected by said justice, and paid into the township treasury, for the use of the township. How collected

Sec. 29. That each person who has a family, shall hold the following property exempt from execution or sale, for any debt, damages, fine or amercement, to wit: One cow, twelve head of sheep, and the wool shorn from them: all the flax in possession of such family, and the yarn or thread manufactured therefrom; two spinning wheels, two beds, bedstead and bedding; the usual and common wearing apparel of such family; any quantity of cloth manufactured by such family, not exceeding seventy-five yards; two pots or kettles, and any other articles of household furniture which the debtor shall select, not exceeding fifteen dollars in value, to be appraised by two disinterested householders; and the tools of a mechanic, to be selected as above, not exceeding twenty-five dollars in value, to be appraised as aforesaid: and the tools of a mechanic necessarily employed in his occupation, shall not be liable to execution, until his other personal property liable to execution shall have been levied on and sold. What property exempt from execution

Sec. 30. That any person taken by a writ of *capias ad satisfaciendum*, shall be discharged by delivering or setting off to the officer serving the same, real or personal property sufficiently to satisfy the judgment and costs for which such writ issued. Case discharged by delivery of sufficient property

Sec. 31. That the party at whose suit any person may stand charged in execution, for any debt or damages recovered, his, her, or their executors or administrators, may, after the death of the person charged, and dying in execution, lawfully sue out and have a new execution against the goods and chattels, lands and tenements, or any of them, of the person so deceased, in such manner and form, to all intents and purposes, as he, she, or they, might have had by the laws of this State, had the person never been taken and charged in execution: *Provided always*, That nothing in this section contained shall be so construed as to authorize the party, his, her or their executors and administrators, at whose suit any person shall be in execution and die, to have execution against the lands and tenements of the person so dying, which shall, at any time after his or her being taken and charged in execution, be by him or her sold, bona fide, for the payment of just debts. Person dying in execution, a new execution may issue against goods, &c

Sec. 32. That if any sheriff or other officer shall refuse or neglect to execute any writ of execution to him directed, and which hath come to his hands; or shall neglect or refuse to sell any goods and chattels, lands and tenements; or shall neglect to call an inquest according to the foregoing provisions of this act, and return a copy thereof forthwith to the clerk's office; or shall neglect to return any writ or writs of execution to him directed, to the court to which the same is or are returnable, on or before the second day, or on or before the third Monday of the term, (as the case may be,) to which the same For what causes sheriff or other officer may be amerced

is or are made returnable; or shall neglect to return a just and perfect inventory of all and singular the goods and chattels by him taken in execution, unless the said sheriff or other officer shall return, that he hath levied and made the amount of the debt, damages and costs; or shall refuse or neglect, on demand, to pay over to the plaintiff, his agent or attorney of record, all moneys by him collected or received, for the use of said party, at any time after collecting or receiving the same, except as provided in the fifteenth section of this act; or shall neglect or refuse, on demand made for that purpose by the defendant, or his legal agent or attorney of record, to pay over all moneys by him received for any sale made as aforesaid, more than sufficient to satisfy the writ or writs of execution, with interest and legal costs—such sheriff or other officer shall, on motion in open court, and two days' notice thereof in writing, to be given such sheriff or other officer by the plaintiff or his attorney, be amerced in the amount of said debt, damages and costs, with ten per centum thereupon, to and for the use of the said plaintiff or defendant, as the case may be.

Two days' notice to be given to sheriff

Amount of amercement

Clerks of supreme court and common pleas may be amerced for not paying over money. &c

Sec. 33. That if any clerk of the supreme court or courts of common pleas, shall neglect or refuse, on demand made for that purpose by the person entitled thereto, his agent or attorney of record, to pay over all money by him received, in his official capacity, for the use of such person, every such clerk may be amerced; and the proceedings against him and his securities shall be the same as is provided for by this act against sheriffs and their securities.

Amount of amercement for not paying over money

Sec. 34. That when the cause of amercement is for refusing to pay over money collected as aforesaid, the said sheriff or other officer shall not be amerced in a greater sum than the amount so withheld, with ten per centum thereon.

Executions issued out of the county may be returned by mail

Sec. 35. That when execution shall be issued in any county in this State, and directed to the sheriff or coroner of another county, it shall be lawful for such sheriff or coroner having such execution in possession, after having discharged all the duties required of him by law, to inclose such execution, by mail, to the clerk of the court who issued such execution: and, on proof being made by such sheriff or coroner that such execution was mailed a sufficient or reasonable time to have reached the office where it was issued, within the time prescribed by law, such sheriff or coroner shall not be liable for any amercement or penalty for any failure of the safe arrival of such execution; any thing in this act to the contrary notwithstanding.

Sheriff not to send money by mail without instructions

Notice to amerce sheriff of another county, how given

Sec. 36. That no sheriff shall forward any money, made on any such execution, by mail, unless he shall be especially instructed so to do, by the plaintiff, his agent or his attorney of record: and in all cases of a motion to amerce a sheriff or officer, of any county other than the county from which the execution issued, notice shall be given to such officer as herein before required, by leaving with such officer, or at his office, a written

copy of such notice, at least fifteen days before the first day of the term at which such motion shall be made, or by inclosing or transmitting by mail a written copy of such notice, directed to such officer, at least sixty days previous to the first day of the term at which such motion shall be made; and all amercements so procured, shall be entered on the record of the court, Force of amercement and shall have the same force and effect as a judgment.

Sec. 37. That each and every security of any such sheriff or other officer, may be made party to the judgment so as aforesaid rendered against such sheriff or other officer, by scire facias against such security: and every such surety or sureties, Sureties may be made parties to judgment against sheriff, by scire facias may, at the return of such scire facias, set up any matter which may have arisen subsequent to entering judgment against such sheriff or officer, in his, her, or their defence; but no matter which may have arisen previous to entering such judgment against such sheriff or other officer, shall be permitted to be set up as a defence: and in case the surety or sureties do not show sufficient matter of defence, at the return of said writ of scire facias, wherefore judgment should not pass against him or them, the court before whom the same is made returnable, shall render judgment against such security or securities; as in other cases: whereupon, execution, in the name, and for the use of the party, or his legal representative, may, on motion, be awarded against the body of the sheriff or other officer, and the goods and chattels, lands and tenements, of such sheriff or other officer, and any sureties who may have been made a party to any such judgment: but the goods and chattels, lands and tenements of any such security, shall not be liable to be taken on any such execution, when sufficient goods and chattels, lands and tenements of the sheriff or other officer, against whom execution may be issued, can be found to satisfy the same: What defence sureties may make *Provided*, That nothing herein contained shall prevent either party from proceeding against such sheriff or other officer, by attachment, according to law, at his election. Property of sureties not to be taken, while sheriff has sufficient Party may have attachment against sheriff

Sec. 38. That in cases where a sheriff, coroner or other officer, may be amerced, and shall not have collected the amount of the original judgment from the judgment debtor, he shall be permitted to sue out an execution, and collect the amount of said judgment, in the name of the original plaintiff, for the use of the said sheriff, coroner, or other officer. Officer amerced may have execution on original judgment

Sec. 39. That the act, entitled "An act regulating judgments and executions," passed the fourth day of February, eighteen hundred and twenty-four; and all other acts, or parts of acts, coming within the purview of this act, be, and they are hereby repealed: *Provided*, That nothing in this act shall be so construed as to affect bonds given for the delivery of personal property, or any liens created or accruing, under the provisions of the act passed February fourth, eighteen hundred and twenty-four. Acts repealed Proviso saving bonds, liens, &c.

DUTIES OF SHERIFF

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 1, 1831.

AN ACT defining the duties of Sheriffs and Coroners, in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That every sheriff and coroner, shall, within ten days after they shall have received their commissions, give bonds to the State of Ohio, with two or more securities, to be approved of by the court of common pleas, of the proper county, in any sum not exceeding twenty thousand nor less than three thousand dollars, at the discretion of the court, or of a majority of the associate judges, if the court of common pleas shall not be in session, conditioned for the faithful discharge of their respective duties: and the said court may, at any time during the continuance of such sheriff or coroner in office, require of them such further and additional security as they may deem necessary; which bonds shall be lodged with the clerk of the court of common pleas, of the proper county, and shall be by him recorded in the book of records of the judgments of said court: and whenever it shall be necessary for any sheriff or coroner, to give bond during the vacation of the court of common pleas, it shall be competent for a majority of the associate judges of said county, to determine upon the sufficiency of the bond and surety aforesaid, who shall meet at the usual place of holding judicial courts, within said county, for the purpose aforesaid; and no judge, clerk, or attorney of any court, shall be received as surety for any sheriff or coroner; and if any sheriff or coroner shall fail to give the necessary security within the time allowed by this act, he shall be taken and deemed to have resigned his said office: *Provided,* That in all cases where the court may think proper, for good cause shown, to require additional security of the sheriff or coroner; upon their refusing to comply with such requisitions, the court is hereby authorized to declare the office of such sheriff or coroner vacant, and proceed accordingly.

Sec. 2. That it shall be the duty of every sheriff, to preserve the public peace; to cause all persons guilty of any breach thereof, within his knowledge or view, to enter into recognizance with sureties, for keeping the peace, and appearing at the succeeding term of the common pleas, of the proper county; and

Sheriffs and coroners to give bond

Court may require additional bonds

Bonds to be recorded

Who shall not be security

Failing to give bonds, office vacant

Provided.

Sheriffs shall preserve the peace

to commit to jail, in case of refusal: and shall return a transcript of his proceedings, with the recognizance by him taken, to the court aforesaid; and shall execute all warrants, writs and other process to him directed by the proper and lawful authority; and shall attend upon all courts of common pleas, and the supreme court of the county, during their session: and shall have power to call to his aid, in the execution of the duties herein and by law required, such person or persons, or power of the county, as may be necessary.

To execute warrants, writs and other process

Sec. 3. That if any person or persons, who may be charged with the commission of a crime or offence, made punishable by the laws of this State, shall abscond or remove from the county in which such crime or offence be charged to have been committed, it shall be lawful for any sheriff, constable or other person, to apprehend the person or persons so charged, and forthwith remove him, her or them, to the county in which the alleged crime, may be said to have been committed, and deliver such person or persons, to any judge or justice of the peace, in said county; who shall cause the person or persons so delivered, to be dealt with as the law may direct: and it shall be the duty of the auditor of the county, to which such removal is made, to allow the officer or other person causing such removal, all necessary disbursements and expenses, together with a reasonable compensation for his time and trouble; and the amount so allowed, shall be paid on the order of the auditor aforesaid, out of the county treasury.

Persons charged with crime, removing or absconding, may be apprehended by sheriff, &c.

Expenses and fees how paid

Sec. 4. That it shall be the further duty of the sheriff of every county, to take charge of all persons committed to prison, and see that they are safely kept and supplied with necessary sustenance, agreeable to law; and shall, by himself or deputy, at all times, attend to the jail of the county, for the purposes aforesaid: and if any sheriff shall refuse or neglect to perform the duties which, by law, he may be required to perform, he shall, upon conviction thereof, be fined in any sum not exceeding four thousand dollars, at the discretion of the court; to be recovered by indictment, to, and for the use of the county in which the offence shall have been committed: *Provided*, That the provisions herein contained, shall not extend to affect any remedy, which might otherwise be had against any sheriff, for an escape or neglect, upon civil process.

To take charge of prisoners

Attend to the jail

Liable to indictment, &c., for neglect

Provide

Sec. 5. That whenever any person charged with the commission of any offence, or who shall be arrested upon any civil process, or who may have been sentenced to suffer imprisonment, upon conviction, shall be in custody in any county having no sufficient jail, the sheriff or coroner shall forthwith convey the persons in custody, as aforesaid, to the jail of such adjoining county, as, in the opinion of the officer, shall be the most convenient and secure: and the said officer shall have authority to call such aid as may be necessary, in guarding and transporting such person so in custody; and if any person shall refuse or

Prisoner may be conveyed to jail of adjoining county; where, &c.

neglect to render such necessary aid, when thereto required, he shall, upon conviction thereof, before any justice of the peace, within the county in which said offence shall have been committed, forfeit and pay for every such offence, the sum of ten dollars, to, and for the use of the county aforesaid: and the said sheriff or coroner, with the persons whom he may call to his assistance, for conveying any persons from one county to another, as aforesaid, as is in this section provided, and for returning such persons as is hereinafter provided, shall each receive a reasonable compensation for their services, at the discretion of the auditor of the county, from which such person shall have been removed; to be paid out of the treasury thereof, upon the order of the auditor aforesaid.

Jailer to be paid
by county from
whence prisoner
comes

Sec. 6. That it shall be the duty of the sheriff of the county to which such prisoner shall be removed, as aforesaid, on being furnished with a copy of the process or the commitment of such prisoner, to receive such prisoner into his custody: and he shall be liable for escapes, or other neglect of duty, in relation to such prisoner, as in other cases: and shall be paid out of the treasury of the county from which such prisoner shall have been removed, such fees as are allowed by law, in other cases; to be paid upon the order of the auditor of the county aforesaid.

Habeas corpus to
issue for prisoner

Sec. 7. That whenever any person charged with the commission of any offence, shall have been removed for safe keeping, as aforesaid, it shall be the duty of the prosecuting attorney of the county, in which such person shall have been charged, at least ten days before the term of the court of common pleas, or supreme court, to which such person shall have been committed for trial, to file with the clerk thereof, a precept, directing that a habeas corpus issue: and the said clerk shall, thereupon, issue such writ, directed to the sheriff, in whose custody said person so charged, shall be; who shall, upon the service thereof, by the sheriff of the county from which said person shall have been removed, deliver over such person to the said last named sheriff, who shall have the person so charged, before the said court, to be dealt with according to law.

Sheriff to deliver
writs, goods, &c.
to his successor
or to coroner

Sec. 8. That whenever the term of office for which any sheriff shall have been elected, has expired, or he shall have resigned or removed without the county, it shall be the duty of such late sheriff, to deliver over all writs of execution and all other process of whatever description, whether executed or not, together with all goods and chattels, which may have been by him taken in execution, or attached, and which may remain in his hands, together with all bonds, to such person as may have been elected and qualified to discharge the duties of sheriff; or if no such person shall have been elected and qualified, as aforesaid, then to the coroner of said county; making the necessary and proper return upon each writ of execution, or other process, so far as the same shall have been executed: and also, to deliver over, as aforesaid, all prisoners in the jail of the coun-

ty or otherwise in his custody, together with all bail bonds by him taken, and remaining in his possession: and the said new sheriff or coroner shall receive all such writs or other process, and proceed to execute the same or such of them as remain unexecuted in whole or in part, in the same manner as if such writs or other process, had been originally directed to him; and no "venditioni exponas," or other process, shall hereafter be directed to, or executed by any sheriff whose term of office may have expired, as aforesaid: and in case the prisoners, writs, process, bail bonds, and property, shall have been delivered over, as aforesaid, to the coroner, by the former sheriff, his sureties, executors or administrators, it shall be the duty of the said coroner, his executors or administrators, to deliver over all such prisoners, writs, process, bail bonds, and property, to the new sheriff, in like manner, as is hereinbefore provided: and when any sheriff shall die during the period for which he shall have been qualified to act as such, it shall be competent for the executor, administrator or security of such sheriff, to deliver over to the coroner or such person as may be qualified to act as sheriff, within said county, in like manner, as is hereinbefore provided: and during the time when the office of sheriff shall be vacant in any county, the coroner thereof shall be bound to perform all the duties, and be vested with all the powers, of sheriff of said county; and shall also execute process of every kind, to which the sheriff is a party or interested in the suit.

When office of sheriff is vacant, coroner shall do the duties

Sec. 9. That whenever information shall be given to any coroner, that the dead body of any person supposed to have come to his or her death by violence, has been found within his county, it shall be the duty of such coroner to issue his warrant, directed to any constable of the county in which such body shall be found, or, if in his opinion, the emergency shall require, to any discreet person of the county, forthwith to summon a jury of twelve men of the county, having the qualifications of electors, to appear at the place where the dead body shall be, at the time specified in said warrant, to inquire concerning the same; and the constable shall forthwith execute and return the same according to the command thereof: and the said coroner shall administer an oath or affirmation to the jurors aforesaid, of the form and effect following, to wit: You do solemnly swear or affirm, (as may be proper,) that you will diligently inquire, and true presentment make, according to the best of your understanding, in what manner, and by whom, the deceased, whose body is here present, came to his or her death, (as may be proper,) and that you will deliver to me a true inquest thereof, in writing, and by you severally subscribed, without unnecessary delay, according to the evidence which shall be submitted: and the coroner shall have power to issue subpoenas for such witnesses as to him shall appear proper, and shall have power to administer to the said witnesses such oath or affirmation as is usual in other cases: and the jury afore-

Death by violence, coroner to summon jury

Jurors' oath

Subpoenas may issue

Proceedings to
be returned to
court

said, having been impaneled and sworn aforesaid, with the said coroner, shall proceed to inquire in what manner the deceased came to his death; and if by violence, from any other person or persons, by whom, whether as principals or accessories, before or after the fact, together with all the circumstances in relation thereto: and the testimony of the witnesses shall be reduced to writing, and by them respectively subscribed, and shall, with the inquisition and recognizances hereinafter directed; if any, be by him returned to the court of common pleas of the proper county: and it shall be the duty of the coroner, if in his discretion he shall adjudge it necessary, to cause the witnesses attending as aforesaid, to enter into recognizance, in such reasonable sum as may be proper, conditioned for their appearance at the succeeding term of the court of common pleas for said county, to give testimony of and concerning the subject matter aforesaid: and the said coroner may, if he shall deem it necessary, require of the witnesses, or any of them, to give security for their attendance as aforesaid: and if the said witnesses, or any of them, shall neglect to enter into recognizance and give the necessary security, if required, it shall be the duty of the said coroner, to commit any person so neglecting, to the prison of the county, there to remain until discharged by due course of law.

Witnesses may
be recognized

Verdict to be in
writing and signed

Sec. 10. That it shall be the duty of the said jurors to draw up their verdict of the facts by them found, in writing, and severally subscribe the same, and make return thereof to the said coroner without delay: and if it shall be returned by the jurors aforesaid, that the deceased came to his or her death by force or violence, and by any other person or persons, and if the persons so charged, or any of them, shall be there present, it shall be the duty of the said coroner to arrest such person or persons, and convey him or them immediately before a proper officer for examination; and if the said persons, or any of them, shall not be present, it shall be the duty of the said coroner forthwith to inform one or more justices of the peace, and the prosecuting attorney, if within the county, of the facts so found, in order that the persons may be immediately dealt with according to law.

Person may be
arrested

Fines upon officers who neglect
duty

Sec. 11. That every constable, or other person, who may have been appointed as aforesaid, who shall fail to execute any warrant to him directed, as aforesaid, he shall forfeit and pay a fine of fifty dollars; and every person who may have been summoned to attend as a juror aforesaid, and who shall fail to attend, shall pay a fine of five dollars; in either case, to be recovered upon the complaint of the said coroner before any court having jurisdiction thereof: and every coroner who shall refuse or neglect to perform any of the duties herein required of him, he shall forfeit any sum not exceeding two thousand dollars, at the discretion of the court, to be recovered by indictment in the court of common pleas of the county in which the

offence shall have been committed; all of which said fines shall be to and for the use of the county.

Sec. 12. That the act, entitled "an act defining the duties of sheriffs and coroners in certain cases," passed the fifth day of January, in the year one thousand eight hundred and five; and an act to amend the last named act, passed the seventh day of January, in the year one thousand eight hundred and nineteen, be, and the same are hereby repealed.

This act shall be in force, from and after the first day of ~~March~~ June next.

JOSEPH RICHARDSON,

Speaker of the House of Representatives.

ALLEN TRIMBLE,

Speaker of the Senate.

February 25, 1824.

AN ACT concerning mesne process in Civil and Criminal cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the first process in personal actions, in cases where the plaintiff is not entitled to special bail, shall be a summons; and, whether the same be issued in or out of term, a copy thereof shall be personally served on the defendant, or left at his usual place of residence, at any time before its return: and in all actions where the plaintiff is entitled to special bail, the first process shall be a capias *ad respondendum*: *Provided*, That the plaintiff, in any case where he may be entitled to special bail, as of course, may sue out a summons instead of a capias; and, on the return of such summons, the court, on motion, may order the defendant to give special bail, in the same manner as if a capias *ad respondendum* had been the first process.

Sec. 2. That it shall be the duty of the sheriff or other officer, to whom any summons, capias *ad respondendum*, or other process, is directed, to return the same at the time and place therein mentioned, which shall be filed by the clerk of the court; and if the said sheriff or other officer fail to make such return, unless he can make it appear to the satisfaction of the court that he was prevented by inevitable accident from so doing, he shall be amerced by the court in any sum not exceeding the plaintiff's debt or demand, to and for the use of said plaintiff.

Sec. 3. That when the sheriff or other officer shall return the summons or other process, "served," the defendant or defendants shall be considered as being in court, and may be proceeded against accordingly.

Sec. 4. That the sheriff or other officer shall execute the said writ of capias *ad respondendum*, by taking the body or

bodies of the defendant or defendants; and in such case, shall return thereon, "I have taken the body," as to the defendant, or, "I have taken the bodies," as to the defendants, on whom the same hath been served: and shall indorse on the capias ad respondendum the name of the bail by him taken, and shall deliver a copy of the bail bond to the clerk of the court, at or before the return day of the same writ; which copy shall be safely kept by the said clerk, in his office.

Copy of bail bond to be returned with the writ

When sheriff returns not found, or 'not served,' an alias or a pluries may issue, or if defendant remove, a testatum

Sec. 5. That when the sheriff shall return any writ of capias ad respondendum, in any civil action, "not found," as to the defendant or defendants, who is or are not to be found in his county, or any writ of summons, to answer as aforesaid, "not served," or not "summoned;" the plaintiff may sue out an alias or pluries capias ad respondendum or summons, until the defendant or defendants shall be arrested or summoned; or testatum capias or summons, where he or they shall have removed into another county subsequently to the commencement of the said suit.

Proclamation may issue

How published

Defendant failing to appear, judgment by default

Sec. 6. That if the defendant, at the time of suing out such process, have a residence in, or be an inhabitant of, the county in which such process was sued out, the court may, on motion of the plaintiff, order a proclamation to issue, warning the defendant to appear at a certain day therein named, or that judgment will be rendered against him; which proclamation shall be published three successive days of the court, [if the court shall so long remain in session] at the door of the court house of the county to which the last process was returned, and also three times in some newspaper published in the State: and if the defendant shall fail to appear, pursuant to such proclamation, the same proceedings shall be had, and the same judgment given, as in other cases of default.

Process against two or more, how served and indorsed by the officer

Sec. 7. That when any writ of capias, summons or other mesne process, against two or more defendants, shall be directed to the sheriff or other officer, it shall be the duty of such officer to serve the same on so many of the defendants as shall be found in his county, and to indorse on said writ the name or names of such defendants as have been served with the same; and it shall also be the duty of such officer to return on said writ the name or names of such defendants as have not been served with the same, specifying that they are not found in his county.

Capias on indictment, when issued to an officer of the county, his power and duty

Sec. 8. That a writ of capias may be issued in term time, or in vacation of court, on an indictment found in any county; and when directed to the sheriff or other officer of the county in which such indictment was found, it shall and may be lawful for such officer to arrest the accused named in such writ, in any county where he may reside or be found, and to hold him to bail as hereinafter provided, in the county where such indictment was found, or commit him to the jail of the same county.

Sec. 9. That when the party accused shall reside out of the county in which such indictment was found, it shall be lawful to issue a capias thereon, directed to the sheriff or other officer of the county where the accused shall reside or may be found; and it shall be the duty of such officer to arrest the accused and convey him to the county from which such writ issued, and there hold him to bail as hereinafter provided, or commit him to the jail of the said county, in the same manner as if such writ had been issued in the county where such officer shall reside: for which service, he shall receive the same traveling and other fees, as are allowed in other cases; which fees shall be taxed by the clerk of the court to which such writ was returnable, and shall be paid out of the county treasury, on the order of the auditor of the said county.

When issued to an officer of another county, his duty

His fees, how taxed and paid

Sec. 10. That it shall be lawful for any sheriff or other officer, executing a capias issued on any indictment, for an offence, the punishment whereof is fine, or fine and imprisonment in the jail only, to take the recognizance of the person so arrested, together with good and sufficient sureties, resident or freeholders in the county from which such writ issued, in a sum of not less than fifty, nor more than two hundred dollars, conditioned for the appearance of such person on the first day of the next term of the court from which said writ issued.

What recognizance may be taken by the officer making an arrest for a misdemeanor offence

Sec. 11. That it shall be the duty of such sheriff or other officer, to return the said writ according to the command thereof, with the name or names of the surety or sureties indorsed thereon, together with such recognizance taken by him as aforesaid.

Recognizance to be returned with the writ

Sec. 12. That the recognizance so taken and returned as aforesaid, shall be filed and recorded by the clerk of the court to which the same was returned, and may thenceforth be proceeded on and carried into judgment and execution, in the same manner as if such recognizance had been taken in any court of record.

Recognizance to be recorded and proceeded on as if taken in court

Sec. 13. That when any person shall have been indicted for a crime punishable by imprisonment in the penitentiary; and the person so indicted, shall not have been arrested or recognized to appear before the court, or in case he shall not have been arraigned during the term at which such indictment was found, the court may, at their discretion, make an entry of the cause, on their journal; and may order the amount in which the party accused, may be recognized for his appearance, by any officer charged with the duty of arresting him.

On indictment for crimes punishable in the penitentiary, court may order the amount of the recognizance

Sec. 14. That the clerk issuing a capias on such indictment, shall indorse thereon, the sum in which the recognizance of the accused was ordered, as aforesaid, to be taken.

The sum shall be indorsed on capias

Sec. 15. That the sheriff or other officer, charged with the duty of executing the said writ of capias, shall take the recognizance of the accused, in the sum ordered, as aforesaid, together with good and sufficient surety or sureties, conditioned

Duty of the officer executing such writ

MESNE PROCESS.

for the appearance of the accused, at the return of the writ, before the court out of which the same issued; and such officer shall return such recognizance to the said court, to be proceeded on in the manner pointed out by this act.

Sec. 16. That the following form of a recognizance, under the provisions of this act, shall be observed by sheriffs or other officers taking the same, namely:

STATE OF OHIO,

COUNTY, ss:

Be it remembered, that on _____ day of _____ in the year of our Lord _____, personally came before me, G. K., sheriff, (or other officer, as the case may be,) of the county of _____, A. B. C. D., &c., and severally acknowledged to owe the State of Ohio, the sum of _____ dollars each; to be levied of their goods and chattels, lands and tenements, if default be made in the condition following, to wit: The condition of this recognizance is such, that whereas the above bounden A. B., has been arrested by me, on a writ of capias issued out of the court of common pleas, in and for the county of _____, on a certain indictment presented in the said court, against the said A. B., for the offence charged in the said indictment:

Now, therefore, if the said A. B., so arrested as aforesaid, shall personally appear before the judges of the court of common pleas of the county last aforesaid, on the first day of the next term thereof, (or during the present term thereof, as the case may be,) then and there to plead to the same indictment, and abide the judgment of the court thereon, and not depart the court, without leave, then this recognizance shall be void and of no effect; otherwise to be and remain in full force and virtue in law.

Which said recognizance shall be signed and sealed by the parties, and attested by the officer taking the same.

Sec. 17. That the act, entitled "An act providing for the service and return of process, in certain cases," passed January 22d, 1824; and the act amending the last named act, passed January 30th, 1827; and all other acts and parts of acts, coming within the purview of this act, be, and the same are hereby repealed: *Provided*, That any rights acquired, or duties or obligations incurred, under the provisions of either of the said acts, shall not be affected, lessened or impaired by the repeal of the same acts; but such rights, duties or obligations, shall be enforced, according to the provisions of the existing law in such cases.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 10, 1831.

Form of the re.
cognizance

Acts repealed

Proviso saving
rights acquired,
&c.

AN ACT allowing mutual debts and demands to be set off, and concerning tenders.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all actions and suits brought on any specialty, ^{What demands may be set off under general issue, with notice} contract, bill, note, promise or account, in any court in this State, it shall be lawful for the defendant to plead the general issue, and at the same time to give notice in writing, to the plaintiff or his attorney, of any debt, contract, book account, or other liquidated demands against the plaintiff, which he may be desirous to have set off and allowed to him, in such action or suit, or of any payment or payments he may have made on such specialty, contract, bill, note, promise or account; and the court shall render judgment for the party, whether plaintiff or defendant, in whose favor the balance may be found for the amount of such balance and costs: *Provided always,* That no bond, bill, note or other writing assigned over to the defendant, after the suit is commenced against him, shall be allowed to be brought in by way of set off to such suit. ^{Provide as to bonds, &c. assigned after suit brought}

Sec. 2. That in any action or suit brought on any writing obligatory, promise or contract, for the payment of money, if ^{Tender may be made and pleaded} the defendant, on a plea of tender, shall prove that he did tender payment of the money due on such writing obligatory, promise or contract, at the time and place when by such writing obligatory, promise or contract, he was holden to pay the same, or at any time before the commencement of such action or suit thereon, and shall bring into court the money so tendered, the plaintiff shall not have judgment for more than the money so due and tendered, without costs; and shall pay the defendant his costs: and in any action or suit brought on any writing obligatory, promise or contract for the payment of any article or thing, ^{Of things other than money} other than money, or for the performance of any work or labor, if the defendant shall plead that he did tender payment or performance of such writing obligatory, promise or contract, at such time and place, and in such article or articles, work or labor, as by such writing obligatory, promise or contract, he was bound to pay or perform, and if the court or jury shall find that the defendant did tender as alleged in his plea, they shall at the same time assess the value of the property or labor so tendered; and thereupon judgment shall be rendered in favor of the plaintiff, for the sum so found, without interest or cost, unless the defendant shall forthwith perform his contract, or give to the plaintiff such assurance as the court may approve, that he will perform the same within such time as the court shall direct; in which case judgment shall be rendered for the defendant: and in case any article so tendered, be of a perishable nature, it shall, from the time of such tender, be kept at the risk and expense of the plaintiff, provided the defendant take reasonable care of the same.

Sec. 3. That when any plaintiff or plaintiffs, shall be indebted to any defendant or defendants, in any debt, contract,

Defendant failing to give notice of set off, barred from costs

book account, or other liquidated demand, and the defendant shall fail to plead the general issue, and give in evidence the said debt, contract, book account, or other liquidated demand, as aforesaid, agreeably to the provisions of this act, said defendant or defendants, shall forever be barred from recovering any costs upon any suit which may thereafter be instituted upon the said debt, contract, book account or other liquidated demand, as aforesaid, unless it shall appear to the court, that it was not in the power of the defendant, in the former suit, to produce the evidence of his said debt, contract, book account or other liquidated demand, as aforesaid, at the time of trial.

Act repealed

Sec. 4. That an act, entitled "An act allowing mutual debts and demands to be set off, and concerning tenders," passed February twenty-fourth, one thousand eight hundred and sixteen, be, and the same is hereby repealed.

Effect

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

• February 19, 1824.

AN ACT dispensing with proof in certain cases.

On plea of general issue, &c., no proof of execution required without affidavit filed

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That upon plea of non-est factum, offered by the person charged as the obligor or grantor of a deed, or plea of non assumpsit, or nihil debit, offered by the person charged as the maker or indorser of any promissory note or bill of exchange, it shall not be necessary for the plaintiff to prove the execution of the deed, or the making or indorsing of the note or bill of exchange, upon which such suit is brought, unless the party offering such plea shall make affidavit of the truth thereof; and when any person, other than the grantor or obligor of such deed, or the maker or indorser of such promissory note or bill of exchange shall be defendant, the same rule shall be observed as to proof, unless the defendant, at the time when either of the pleas aforesaid shall be offered, shall make affidavit, that he or she believes the deed on which the action is founded, is not the deed of the party charged as the obligor or grantor thereof, or that the promissory note or bill of exchange was not subscribed or indorsed by the party charged as the maker or indorser thereof.

Book accounts may be verified by oath of party

Sec. 2. That in all actions wherein any claim or defence is founded on book accounts of not more than eighteen months standing, in which is drawn in question the validity or amount

of any such book accounts, the court or justice may, upon the trial of such action, examine the party under oath or affirmation, touching the validity of such account or accounts, which shall be admitted as evidence on the trial, the credibility thereof being left to the jury or justice to determine.

JOSEPH RICHARDSON,
Speaker of the House of Representatives,
ALLEN TRIMBLE,
Speaker of the Senate.

December 18, 1823.

AN ACT concerning the admission of testimony in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be competent for a party to any suit hereafter to be tried in any court within this State, to exhibit in support of his action or plea, to the court before whom such action is to be tried, the copy of any entry, survey or voucher, on record or file in the office of Richard C. Anderson, surveyor of the lands lying within the Virginia Military district, or his successor in office; signed and sworn to by the said Richard C. Anderson, or his successor in office, as being a correct copy or copies of any entry, survey or other voucher, being on record or file in said office, and also that the copies of entries and surveys, or other vouchers on record or file in the office of the auditor of State, may in like manner be exhibited in support of any such action or plea: in all which cases it shall be unnecessary for the party producing such copy or copies, to give notice of the taking the same, to any party interested in the cause or matter to which they relate.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

December 18, 1823.

AN ACT to provide for the taking of depositions.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when the testimony of any person shall be necessary in any civil cause or matter, pending in either the court of common pleas or supreme court, sitting as a court of law or equity, and such person shall reside out of the county where

Sworn copies of
entries, &c. from
R. C. Anderson's
or auditor's of-
fice, to be admit-
ted in evidence
without notice

Depositions of
witnesses resi-
ding out of the
county, going
out, aged or in-
firm, may be ta-
ken

Before whom
such depositions
may be taken

such cause or matter is pending, or shall intend to leave such county before the time of trial, or shall be ancient or very infirm, the deposition of such person may be taken before any justice or judge of any court of the United States, or before any chancellor, master commissioner in chancery, justice or judge of any supreme or superior court, notary public, mayor or chief magistrate of any city or town corporate, judge of any county court, or court of common pleas, or justice of the peace of this State, or of any of the United States, or of any district or territory thereof: *Provided*, Such officer shall not be of counsel or attorney to either of the parties, or otherwise interested in the event of such cause.

Province as to the
interest of the
officer, &c.

Notice to be giv-
en to the adverse
party

Sec. 2. That prior to the taking of any such deposition, a written notice, specifying the time and place of taking the same, shall be served on the adverse party, his agent or attorney of record, or left at his usual place of abode, so that he may be present and put interrogatories, if he, or his agent or attorney, shall think proper: which notice shall be served as aforesaid, so as to allow the adverse party, time to attend after the service of such notice, by traveling at the rate of twenty miles per day, Sundays exclusive.

Oath to be taken
by witnesses

Sec. 3. That any person required to depose as aforesaid, shall be sworn or affirmed, by the justice, judge, notary public, or other officer, before whom such deposition may be taken, to testify the truth, the whole truth, and nothing but the truth; and shall subscribe the testimony by him or her given, after the same shall be reduced to writing, by the officer taking the deposition, or by the witness, or some other disinterested person, in his or her presence.

Depositions shall
be subscribed by
witness

Depositions to be
delivered at the
clerk's office, by
the officer taking
the same, or
with the notice,
sealed and sent

Sec. 4. That the deposition so taken, as aforesaid, shall be delivered by the officer taking the same, into the office of the clerk of the court where the cause or matter shall be pending, in which such deposition was taken; or shall, together with a copy of the notice to the adverse party, be, by such officer, sealed up, directed and transmitted to the clerk of such court, there to remain under seal, until opened according to the rules prescribed by such court for that purpose.

Depositions ta-
ken for C. P. to
be used in same
cause in S. C.

Sec. 5. That all depositions taken as aforesaid, in any cause or matter depending in the court of common pleas, sitting as a court of law or equity, shall be admitted and read in evidence, on the hearing of the same cause or matter, when removed into the supreme court; and shall be, by the clerk of the court of common pleas, certified and sent up with such cause or matter: *Provided*, That before the deposition of any aged, infirm, absent or going witness, resident of the county, shall be admitted in evidence in either of said courts, when sitting as a court of law, such court shall be satisfied that the personal attendance of such witness could not be obtained at the trial.

Deposition of res-
ident witness, not
used at law, if
witness can at-
tend trial

Officers author-
ized to take de-

Sec. 6. That each and every judicial or other officer residing in this State, and who may be authorized, as aforesaid, to

take depositions within the same, shall have power, at the instance of any person who may be desirous of taking the deposition of any witness, relating to any civil action, suit, bill, petition or other judicial matter or proceeding, pending in any court, or before any referees or arbitrators, of this State, or any other State, district, territory or country, to cause such witness, by process of subpoena, to appear before him, on reasonable notice, at a certain time and place therein specified.

Sec. 7. That if any person who shall have been subpoenaed to appear as aforesaid, shall neglect or refuse to attend accordingly, not having a reasonable excuse for such neglect or refusal, the officer issuing such subpoena, is hereby authorized and empowered, to compel such person, by attachment, to be brought before him; and for want of a reasonable excuse, as aforesaid, to fine such person in any sum not exceeding fifty dollars, to and for the use of the party for whom such witness was subpoenaed, as aforesaid, with costs: and such witness shall, moreover, be liable to the action of the party injured, for all damages he may have sustained by reason of the non-attendance of such witness.

Sec. 8. That if any person, not incompetent to testify in the action, cause or matter, pending as aforesaid, nor otherwise protected by law from testifying therein, and having appeared as required, shall nevertheless, refuse to testify, the officer issuing such subpoena, shall fine every such person in any sum not exceeding fifty dollars, nor less than five dollars, to and for the use of the party for whom such person was subpoenaed, or commit him to the jail of the county, there to remain until he shall submit to testify: *Provided*, That before any person subpoenaed, as aforesaid, shall be compelled to testify, he shall be paid, if he demand them, his lawful fees for attendance.

Sec. 9. That depositions taken pursuant to this act, shall be admitted in evidence on the trial of any civil action, cause or matter, pending before justices of the peace, or before any mayor, or other judicial officer of a city, or town corporate, or before any arbitrators or referees: and such depositions shall be delivered or sealed up, addressed and transmitted by the officer taking the same, to such justice, mayor or other judicial officer, arbitrator or referees.

Sec. 10. That such depositions, having been taken and admitted in evidence, in any such inferior court, as aforesaid, may, on appeal therefrom, be read in evidence on the trial of the same action, cause or other matter, in the court to which such appeal may be taken; subject, however, to all such legal exceptions, as may be taken thereto: *Provided*, That such deposition shall be filed with the clerk of the court to which such appeal may be taken, on or before the second day of the term of the said court, next succeeding the time of taking such appeal.

Sec. 11. That depositions taken pursuant to this act, by any judicial or other officer of this State, authorized to take the

positions. may
issue subpoenas
for witnesses

And may com-
pel the attend-
ance of witnesses
by attachment

Witness attach-
ed, may be fined
and shall be lia-
ble to an action
for damages

Witness refus-
ing to testify,
may be fined or
imprisoned

But may demand
his fees before
testifying

Depositions ta-
ken pursuant to
this act, may be
used before jus-
tices, mayor, ar-
bitrators, &c.

Depositions used
in court below,
may be used in
same cause, on
appeal

Provided as to the
time of filing
them in court

Authentication
of depositions.

what shall be sufficient in the circuit where taken same, shall be admitted in evidence before any court, referees or arbitrators, sitting in any judicial circuit of the courts of common pleas, wherein such depositions may have been taken, upon the certificate and signature of such officer, whereto shall annexed his seal of office, if he shall have one; and no other or further act of authentication thereof shall hereafter be required: but if such depositions were not taken within the judicial circuit in which they are to be used in evidence, whether taken in this State or elsewhere, they shall be further authenticated, either by parole proof adduced in open court, or by the annexation thereto, of the official certificate and seal of any secretary or other officer of State, keeping the great seal of State, or of the clerk or prothonotary of the court of any city, county, circuit, district, State, territory, province, or other division, that the judicial or other officer before or by whom, such depositions were taken, was, at the time of taking the same, an officer, within the meaning of this act.

How authenticated, when used out of the circuit where taken

Sec. 12. That it shall be the duty of any sheriff or constable, to whom any subpoena, or writ of attachment, may be directed, under the provisions of this act, to execute the same according to the command thereof; for which service such officer shall have the same fees as are, or may be allowed by law, for like services in other cases.

Sheriffs and constables to serve process under this act—their fees as in other cases

Sec. 13. That if any such officer shall neglect or refuse to execute and return any subpoena or attachment, directed and delivered to him as aforesaid, he may be amerced by the court of common pleas of the proper county, to and for the use of the party injured thereby, in the same manner, and to the same amount, that such officer could or might be amerced, for neglecting or refusing to execute and return similar process in other cases.

Officer neglecting to execute or return such process, may be amerced by C. P. as in other like cases

Sec. 14. That each and every master commissioner in chancery, judicial or other officer residing in this State, and who is authorized by this act to take depositions, shall be entitled to demand and receive for taking the same, the following fees, namely: for swearing each witness, four cents; for each subpoena or writ of attachment, the same fees that now are, or hereafter may be allowed to the clerks of the supreme court, or courts of common pleas, for issuing similar process in other cases; and for each hundred words contained in any such deposition and certificate, the sum of ten cents, and no more: and the master commissioner, judicial or other officer, taking such deposition, may retain the same in his possession until such fees shall be paid.

Fees of officers taking depositions

Sec. 15. That depositions taken within this State, shall be certified by the officer taking the same, as nearly in the form following as the nature of the case will admit, namely: I, A B, judge, justice of the peace, master commissioner in chancery, or other officer, (stating the official character of the officer according to the fact,) do hereby certify that C D, (naming each witness examined) was by me sworn or affirmed to testify the

May retain depositions till fees are paid

Form of certificate to be used by the officer taking depositions

truth, the whole truth, and nothing but the truth; and that the deposition by him subscribed, was reduced to writing by (naming the person who did the same) and taken at the time and place in the notice specified. Signed, A B.

Sec. 16. That the act entitled "an act to provide more effectually for taking of depositions, and to dispense with the making of full records of judgments in certain cases," passed February the 12th, 1828, be, and the same is hereby repealed. Act repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 3, 1831.

AN ACT providing the mode of perpetuating testimony in certain cases:

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That any two associate judges of the court of common pleas, or in case there be no two associate judges disinterested, then two justices of the peace in their respective counties, may take the deposition in writing, of any person residing therein, to perpetuate the remembrance of any fact, matter or thing; and the associate judges or justices of the peace, before whom such deposition is to be made, shall cause such person or persons, whom they know to be interested, either directly or indirectly, or otherwise affected by such deposition, if within their county, to be duly notified of the time and place of taking such deposition, and if without the county, his or their attorney, if any they have, who shall be at liberty to interrogate and cross examine such deponent; and all such questions and answers shall be reduced to writing and included in such deposition: Before whom depositions may be taken to perpetuate evidence and the deposition being reduced to writing by one of the associate judges, or justices of the peace, or by the deponent, in their presence, and subscribed, either of the associate judges or justices of the peace, shall administer an oath or affirmation, and certify the caption; and the deposition so taken, shall, within sixty days, be recorded within the office of the recorder of deeds, in the county where the land lies, if the deposition respects real estate; and if the same respects personal estate, then in the office of the clerk of the court of common pleas of the said county where the same shall be taken: and the deposition so certified, or a copy of said record, may, in case of the death of such deponent, absence out of the State, or inability to attend the court as aforesaid, be used as evidence in any cause to which it may relate: *Provided,* That nothing in this act How to be taken, and effect Provide

contained, shall be so construed as to prevent any and all legal exceptions being made and allowed to the reading of such deposition, on any trial at law or equity, in which the same may be introduced as evidence; unless it shall appear by a certificate thereon, that the party against whom the same is to be used, or his attorney, was present at the taking of the same.

Act repealed

That the "act providing the mode of perpetuating testimony in certain cases, passed February the nineteenth, A. D. eighteen hundred and ten, be, and the same is hereby repealed.

JOSEPH RICHARDSON,

Speaker of the House of Representatives.

ALLEN TRIMBLE,

Speaker of the Senate.

February 6, 1824.

AN ACT allowing and regulating writs of replevin.

Goods wrongfully detained may be replevied

Precipe for writ to contain a description of the property, and be accompanied with an affidavit What affidavit must contain

Writ issued without affidavit to be quashed at the cost of the clerk, &c.

The command of the writ

Officer may break open house, &c. to replevy property concealed, entrance being refused

Property replevied, not to be

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall wrongfully detain the goods and chattels of another, the owner, or his agent or attorney, may file a precipe, containing a description of the property to be replevied, with the clerk of the court of common pleas, for a writ of replevin; and shall therewith file an affidavit, stating that he has good right to the possession of the goods and chattels described in said precipe, and that they are wrongfully detained by the defendant, and that said goods and chattels were not taken in execution on any judgment against the said plaintiff, nor for the payment of any tax, fine or amercement, assessed against the said plaintiff: and any writ issued, without such affidavit, shall be quashed, at the costs of the clerk issuing the same, who, as well as the plaintiff, shall be, moreover, liable in damages, to the party injured.

Sec. 2. That the writ shall be directed to the sheriff or coroner of the county, commanding him to cause to be replevied to the plaintiff, the same goods and chattels named in such precipe and affidavit; and to summon the person charged with their unlawful detainer, to appear at the next court of common pleas, to be holden in the county, to answer unto the plaintiff, for the unlawful detention.

Sec. 3. That the sheriff or other officer, may break open any house, stable, out house or other building, in which such property is concealed, in order to replevy the same; having first made demand of such property, and of entrance into such building, and the same being refused.

Sec. 4. That before the sheriff or other officer, shall deliver to the plaintiff, his agent or attorney, any goods or chattels re-

plevied as aforesaid, the plaintiff shall give bond to the defendant, with two or more responsible freeholders of the county, as securities, in double the value of the goods and chattels replevied; (which value shall be ascertained by the oath of two or more disinterested persons, whom the sheriff or other officer, shall swear truly to assess the value thereof,) conditioned that the plaintiff shall appear at the return term of the writ, and prosecute his suit to effect, and pay all costs and damages which shall be awarded against him: which bond shall be returned with the writ, for the security and benefit of the defendant.

delivered to plaintiff till bond and security given in double the value thereof

Condition of the bond

Sec. 5. That if the plaintiff, his agent or attorney, shall neglect or refuse to execute and give bond as aforesaid, within twenty-four hours from the taking of such goods and chattels, under said writ, then the sheriff or other officer shall return said goods and chattels to the defendant: and if the sheriff or other officer, shall deliver any property so replevied to the plaintiff, his agent or attorney, or detain the same from the defendant, without taking such security within the time aforesaid, or shall take insufficient security, he shall be liable to the defendant in damages.

If bond be not given in 24 hours, property to be returned to defendant

Officer not complying with the foregoing requisitions, shall be liable, etc.

Sec. 6. That on the return of every writ of replevin, the suit shall be subject to the same usages and rules of practice, as other cases: but if the plaintiff shall discontinue his suit, or become non-suit, or where judgment shall be rendered against the plaintiff on demurrer, or he shall otherwise fail to prosecute his suit to final judgment, then, or in either case, the court shall, on application of the defendant or his attorney, impanel a jury to inquire into the right of property, and right of possession, of the defendant, to the goods and chattels in controversy; and if the said jury shall be satisfied that said goods and chattels were the property of the defendant, at the commencement of the action, or if they shall find only, that the defendant was entitled to the possession of the goods and chattels at the commencement of the action, then, and in either case, they shall assess such damages for the defendant, as are right and proper; for which, together with costs of suit, the court shall render judgment against the plaintiff.

When plaintiff discontinues etc. a jury may be impaneled, and finding the right of property or right of possession in defendant, shall assess his damages; for which and costs, he shall have judgment

Sec. 7. That in all cases, upon issue joined, where the jury shall find for the defendant, they shall also find, whether the defendant had the right of property in the goods and chattels, or the right of possession only, at the commencement of suit; and if they shall find either in his favor, they shall assess such damages as they may think right and proper for the defendant; on which, with costs of suit, judgment shall be rendered by the court.

Also upon issue joined, the jury finding as aforesaid for defendant, shall assess his damages

Sec. 8. That in all cases where the jury shall find for the plaintiff, on an issue joined, or on inquiry of damages upon a judgment by default, they shall assess a lequate damages to the plaintiff, for the illegal detention of the property; for which, and the costs of suit, the court shall render judgment.

Jury finding for plaintiff, shall assess damages for the detention, etc.

No suit on replevin bond, until execution against plaintiff returned "no goods," etc.

Sec. 9. That no suit shall be instituted on the bond given by the plaintiff under the fourth section of this act, by the defendant or his representatives, until an execution shall have issued on the judgment in favor of the defendant in replevin; in which it shall be returned, that sufficient goods and chattels or real estate, whereon to levy and make the amount of the said judgment and costs, cannot be found in the county.

Former acts repealed

Sec. 10. That the "Act allowing and regulating writs of replevin," passed January 2d, 1824. and the "Act to amend the act, entitled 'An act allowing and regulating writs of replevin,'" passed February 22d, 1830, be, and the same are hereby repealed; saving all actions now pending, or which may be brought prior to the taking effect of this act, which shall proceed and be prosecuted to final judgment, under the before mentioned acts.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
 SAMUEL R. MILLER,
Speaker of the Senate.

February 17, 1831.

AN ACT allowing and regulating writs of attachment.

Writ to issue upon oath of creditor, or his attorney

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any creditor, whether resident of the State of Ohio or elsewhere, his agent or attorney, shall make oath or affirmation in writing, before any proper authority, that his debtor hath absconded, to the injury of his creditors, or that such debtor is not a resident of the State, (as he verily believes,) and shall file the same with the clerk of the court of common pleas, such clerk shall issue a writ of attachment, directed to the sheriff or coroner, (as the case may require,) commanding him to attach the lands, tenements, goods, chattels, rights, credits, moneys and effects of said debtor, wheresoever they may be found: and if any clerk shall issue such writ without oath or affirmation, filed as aforesaid, such writ shall be quashed at his costs: *Provided,* That no writ of attachment issued under the provisions of this act, at the suit of any person who is not a freeholder, or a resident of the county, shall be served by the said officer, unless the same shall be indorsed by some freeholder of the county as security for costs.

Command of writ

Provision as to security for costs

Service of writ

Sec. 2. That the officer having such writ, shall go to the place where the defendant's property may be found, and there, in the presence of two freeholders of the county, declare that by virtue of said writ, he attaches said property at the suit of such plaintiff: and the said officer, with the said freehold-

ers, who shall be under oath or affirmation, to be by him administered, (and who shall for their services be allowed such sum as the court may direct,) shall make a true inventory and appraisal of all the property attached, which shall be signed by said officer and freeholders, and returned with the writ, with the time when the same was served; and which, from the time of service, shall bind the property and the estate of the defendant so attached: *Provided*, That where property shall be attached in the hand of a consignee, his lien thereon shall not be affected thereby.

•Sec. 3. That upon the return of said writ, the clerk who issued the same shall make out an advertisement, stating the names of the parties, the time when, from what court, and for what sum, the writ issued, and deliver the same to the plaintiff or his attorney, on demand, who shall cause the same, within thirty days, to be inserted in one of the newspapers printed in this State, and nearest the place where the attachment issued, for six weeks successively; and if any plaintiff shall neglect to have such notice published, the attachment shall be dismissed with costs.

Sec. 4. That the property attached shall remain in the hands of the officer, unless the garnishee, in whose possession it may be found, shall give bond to the officer, with two sufficient sureties, freeholders of the county, in double the appraised value thereof, with condition that the same property, or its appraised value in money, shall be forthcoming to answer the judgment of the court: *Provided*, That if it shall appear to the court, that any part of said property shall have been lost or destroyed, by unavoidable accident, they shall remit the value thereof to the person so bound.

Sec. 5. That if the plaintiff, or other credible person, shall make oath that he has good reason to, and does verily believe, that any person (naming him) has property (describing the same) in his possession, belonging to the defendant, and if the officer cannot come at such property, he shall leave with such garnishee, or at his usual place of residence, a copy of the writ of attachment, and affidavit, with a written notice, that he appear in court, at the return of such writ; and the said garnishee shall attend accordingly, and answer, under oath or affirmation, all questions put to him touching the property and credits of the defendant in his possession, or within his knowledge; and from the day of such service, such garnishee shall stand liable to the plaintiff in attachment, to the amount of the property, moneys and credits in his hands, or due from him to the said defendant; and if such garnishee do not appear in court as required, the court may proceed against him by attachment; or if the plaintiff, or other credible person, shall make oath or affirmation, and file the same, that he has good reason to, and does verily believe, that the said garnishee will abscond, before judgment and execution can be had against

Form of action,
trover, and mo-
ney count added

him, or that any other person, (naming him,) hath any property, moneys or credits of the defendant, then in his possession, or is indebted to said defendant, and that he is in fear such other person will abscond, as aforesaid, it shall be lawful for such plaintiff to institute a suit by *capias ad respondendum* against such garnishee, or other person, who shall be held to special bail; in which suit, the plaintiff may declare for the property, moneys and credits aforesaid, as of his own proper moneys, property and credits, in trover and conversion: or if the garnishee be indebted to the defendant, for money had and received, or if the garnishee shall have property, moneys or credits of the defendant in his possession, and shall also be indebted to said defendant, the plaintiff may declare in trover, adding thereto a count for money had and received, and give the special matter in evidence; and if verdict and judgment be had for the said plaintiff, execution shall be thereupon had, as in other cases.

Suit against gar-
nishee conti-
nued, cost how
taxed and reco-
vered

Sec. 6. That the suit so instituted, shall be continued until the action against the defendant in attachment shall be determined; and if in such action, judgment shall be rendered for the defendant, the garnishee shall recover costs: and if the plaintiff shall recover against the said defendant in attachment, and if the said garnishee shall deliver to the officer executing such writ, all the property in his possession belonging to the defendant, and pay all the moneys from him due, at the time of service of process on such garnishee, then the costs which have accrued in such suit, against said garnishee, shall be paid out of the effects in the hands of such officer.

When property
attached is
claimed by ano-
ther, how trial
shall be had

Sec. 7. That if the officer, by virtue of any such writ of attachment, shall attach any goods or chattels, claimed by any person other than the defendant, it shall be the duty of said officer forthwith to give notice in writing; to some justice of the peace of the county, in which shall be set forth the names of the plaintiff and defendant in attachment, the name of the person or persons claiming, and also a schedule of the property claimed: and it shall be the duty of such justice of the peace, immediately upon the receipt of such notice, to issue a *venire facias*, directed to the sheriff, or any constable of the county, commanding him to summon five disinterested persons, having the qualifications of electors, who shall be named in said *venire facias*, to appear before him, at a time therein mentioned, which shall not be more than three days after the date of said *venire facias*, to try and determine the right in the property so attached; and shall also give notice by summons, to the plaintiff, his agent or attorney, if within the county, of the time and place of such trial: and if the said jury shall find the right to such property, or any part thereof, to be in the claimant, the said justice shall render judgment in favor of such claimant, for his costs, and also that he have restitution of such goods and chattels: but if the right to said property shall be found to be in the defendant in attachment, then the said justice shall enter

Judgment, how
rendered, and
costs taxed

judgment against the claimant for costs, and award execution thereon, as in other cases: *Provided*, That an appeal shall be allowed in all such cases, in the same manner that appeals are allowed from the judgments of justices of the peace, except, that bail for such appeal shall be entered within five days from and after the rendition of judgment: *And provided also*, That no order for restitution shall be issued, until after the expiration of said five days.

Sec. 8. That when an appeal shall be taken and perfected, as is provided in the preceding section of this act, the property so attached and claimed, shall remain in the keeping of the officer attaching the same, unless the claimant shall enter into a bond payable to such officer, in double the appraised value thereof, with one or more sureties, to be approved of by said officer, conditioned that the same property, or the appraised value thereof in money, shall be forthcoming, to answer any judgment that may be recovered by the plaintiff, or other creditor, against the defendant in attachment, in case the right to such property, or any part thereof, shall be determined against said claimant; and the claimant before the justice, shall be plaintiff in the court of common pleas, and shall declare in trover, and the special matter may be given in evidence.

Sec. 9. That at the first and two next succeeding terms after the issuing of the writ of attachment, the defendant shall be called, and his default, entered, at or before which third term, the said plaintiff, and every other creditor of the defendant, may file their declarations, setting forth in a proper manner their cause of action: and it shall be competent for such defendant, at or before the said third term, to file special bail, or surrender himself in custody, or elect to have the property attached, remain in custody, and may plead to any, or all of the declarations which may be filed against him; but that if the said defendant shall not plead as aforesaid, the court, at the said third term, shall proceed at the suit of all the said plaintiffs, as in other cases of default: and the said defendant, or any other on his behalf, may appear and introduce evidence before the court or jury, as in other cases of default; and shall have the same right to appeal, move in arrest of judgment, or set aside the proceedings for irregularity: and if the defendant shall enter special bail, or surrender himself in custody as aforesaid, the operation of such attachment, upon the property and moneys of said defendant, shall cease in respect of the plaintiffs, whose declarations may have been pleaded to in custody, or by reason of having filed special bail: *Provided*, That no judgment shall be rendered under the provisions of this act, except for causes arising out of, founded upon, or sounding in contract, or upon the judgment or decree of some court of law or chancery: *And provided further*, That in case judgment shall be rendered against the original plaintiff in attachment, or if he shall otherwise fail to prosecute his suit to effect, the pro-

Provide
Appeal

When appeal
perfected, prop-
erty to remain
with officer, un-
less claimant
gives bond

Condition of
bond

Claimant to, etc.

Plaintiff
Action trover

Default to be en-
tered three terms

Creditors to file
declaration

Defendant may
file pleas

How to proceed
if defendant does
not appear

Provide

Cause must arise
from contracts

ceedings in favor of such other creditors as may have filed declarations, shall in no wise be affected thereby, but may be prosecuted to final judgment; and the property attached, shall remain in the hands of the officer, to satisfy the same.

Scire facias may
issue, except

Proceedings
against garni-
shee

Sec. 10. That when judgment shall be entered against a defendant in attachment, a scire facias shall issue against the garnishee, (except as herein before provided for,) to appear at the next term, and show cause why the plaintiff should not have execution of the money due by him to the defendant, or of the goods and chattels of the defendant in the possession of the garnishee; and if the said garnishee shall appear upon the return of the said scire facias, and on oath or otherwise, to the satisfaction of the plaintiff, confess the amount of such debt, or the value of such goods and chattels, and deliver the same to the officer serving said attachment, or shall pay the value thereof, with all moneys from him owing to the said defendant, into court, he shall be discharged from all further liability on account of the goods so delivered, and the moneys so paid; and the costs thereof shall be paid out of the effects so attached: that if on said scire facias returned "served," or on two writs returned "nihil," the said garnishee shall not appear and confess, as is herein before provided, judgment shall be entered against him by default, and the court shall proceed to assess the amount thereof, and award execution therefor, as in other cases: that if the said garnishee shall appear at the return of said writ or writs, and plead thereto, the issue shall be tried, and the damages assessed by a jury, as in other cases, and judgment shall be entered for the plaintiff in attachment against the garnishee, for the amount found due from him to the defendant in attachment, and for the value of the goods belonging to said defendant, in his possession at the time of serving said writ, with costs, and shall award execution therefor; but if the said jury find in favor of said garnishee, he shall recover costs, and have execution for the same.

Property, land,
&c. to be sold as
if levied upon by
execution

Money to be di-
vided amongst
creditors

Proviso
Perishable prop-
erty, &c.

Sec. 11. That after judgment for the plaintiffs in attachment, all the property remaining in the hands of the officer, with the lands and tenements, if any, whether held by legal or equitable title, shall be sold by order of the court, under the same restrictions and regulations as if the same had been levied upon by execution, and the money arising therefrom, with the amount which may be recovered from the said garnishee, after discharging the costs, shall be divided among the several creditors, in proportion to the amount of their respective judgments; and if there be not sufficient to satisfy the whole, the said judgments so recovered shall stand, and execution may issue thereon for the residue, in all respects as in other cases: *Provided*, That animals and property of a perishable nature, may be sold by order of the court, at any time after the return of the writ.

Sec. 12. That in all cases of attachment by virtue of this

act, if the plaintiff, his agent or attorney, shall make and file with the clerk, an affidavit setting forth that he verily believes that the defendant in attachment hath lands, tenements and real estate, goods or chattels, situate in any other county, (naming such county,) in the State, the clerk shall, on application of the plaintiff or his attorney, make out and seal another writ of attachment, directed to the sheriff or coroner of the county in which such other property shall be, who shall serve and return the same in the same manner, and for neglect shall be liable to the same penalty, as if such writ had issued and was returnable in his own county; and on such writ executed, there shall be the same proceedings as are hereinbefore directed.

Writ may go to other counties

Sec. 13. That when two or more are jointly bound or indebted, either as joint obligors, partners or otherwise, the writ of attachment provided for by this act, may be issued against the separate or joint estates, or both, of such joint debtors, or any of them, in the same manner and under the same restrictions as is provided for by this act in other cases.

Where two or more are jointly bound, how to proceed

Sec. 14. That if any defendant shall die after a writ of attachment shall have issued against him, it shall not thereby abate; but the same shall be carried on to judgment, sale and distribution, as if such death had not happened.

Action not to be late by death of defendant

Sec. 15. That any writ of attachment which may be issued out of the court of common pleas, shall be a supersedeas to all attachments issued by a justice of the peace, (except so far as herein provided,) which may be undetermined at the time of serving said writ; and it shall be lawful for the officer serving the same, to take into his possession all goods and chattels taken by the constable, as if no writ of attachment had been issued by the justice: *Provided*, That it shall be competent for every plaintiff in attachment, and such as may file their claims before the justice of the peace, to proceed thereon to final judgment, a transcript of which judgment shall be filed in the court of common pleas, and the parties thereto plaintiffs, shall be entitled to the same distribution as if such judgment had been obtained in said court; and all costs accruing before said justice shall be taxed with the costs in court, and paid as hereinbefore directed.

Writ in the C. of C. pleases supersedes the action before a justice

Proviso

Costs how taxed and paid

Sec. 16. That the act allowing and regulating writs of attachment, passed fourteenth February, in the year one thousand eight hundred and ten, and the act amendatory thereto, passed January twenty eight, in the year one thousand eight hundred and thirteen, be, and the same are hereby repealed.

Laws repealed

This act shall be in force from and after the first day of Effect
June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

January 17th, 1824.

Murder in the first degree Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall purposely, of deliberate and premeditated malice, or in the perpetration or attempt to perpetrate any rape, arson, robbery or burglary, kill another; every such person shall be deemed guilty of murder in the first degree, and upon conviction thereof, shall suffer death.

Murder in the second degree Sec. 2. That if any person shall purposely and maliciously, but without deliberate and premeditated malice, kill another; every such person shall be deemed guilty of murder in the second degree, and on conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, during life.

Manslaughter Sec. 3. That if any person shall unlawfully kill another, without malice, either upon a sudden quarrel, or unintentionally, while the slayer is in the commission of some unlawful act; every such person shall be deemed guilty of manslaughter, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years.

Rape upon daughter or sister Sec. 4. That if any person shall have carnal knowledge of his daughter or sister, forcibly and against her will; every person so offending shall be deemed guilty of a rape, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, during life.

Rape Sec. 5. That if any person shall have carnal knowledge of any other woman than his daughter or sister as aforesaid, forcibly and against her will; or if any male person of the age of seventeen years and upwards, shall carnally know and abuse any female child under the age of ten years, with or without her consent; every such person so offending shall be deemed guilty of a rape, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than twenty, nor less than seven years.

Carnal knowledge of insane woman Sec. 6. That if any male person, eighteen years old and upwards, shall have carnal knowledge of other [any] woman other than his wife, such woman being insane, knowing her to be such; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years.

Bigamy Sec. 7. That if any married person, having a husband or a wife living, shall marry any other person; every person so offending shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not exceeding seven, nor less than three years but nothing in this section shall be so construed, to extend to any person whose husband or wife shall be continually and willfully absent for the space of three years together, next before the time of such marriage.

Exception

Sec. 8. That if any step-father shall have sexual intercourse ~~with~~ with his step-daughter, knowing her to be such; or if any step-mother and her step-son shall have sexual intercourse together, having knowledge of their relationship; or if any father shall have sexual intercourse with his daughter, knowing her to be such; or if any brother and sister, being of the age of sixteen years or upwards, shall have sexual intercourse together, having knowledge of their consanguinity: every step father, step-mother, step-son, father, brother, or sister, so offending, shall be deemed guilty of a high misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years.

Sec. 9. That if any person, on his or her oath or affirmation, ^{perjury} in any action, plea, suit, bill, petition, answer, complaint, indictment, controversy, matter or cause, depending, or which may depend in any of the courts of this State, civil, criminal or military; or before any justice of the peace, referees or arbitrators; or in or before the Senate or House of Representatives of the Legislature of this State, or any committee thereof; shall, in any deposition or affidavit, or other oath or affirmation, taken or made pursuant to the laws of this State, or of any resolution of the Senate and House of Representatives of the Legislature of this State, or of either of them, shall willfully and corruptly depose, affirm or declare, any matter to be fact, knowing the same to be false, or shall, in like manner, deny any matter to be fact, knowing the same to be true: every person so offending shall be deemed guilty of perjury, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Sec. 10. That if any person shall persuade, procure or suborn any other person to commit willful and corrupt perjury; ^{subornation of perjury} every person so offending shall be guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Sec. 11. That in every indictment for perjury or subornation of perjury, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and before what ^{Substance of the offence sufficient in the indictment for perjury} court or authority the oath or affirmation was taken, averring such court or other authority to have had full power to administer the same, together with the proper averment, or counts, to satisfy the matter or matters wherein the perjury is assigned; without setting forth any part of any record or proceedings, either in law or equity, other than as aforesaid, and without setting forth the commission or authority of the court, or other authority before whom the perjury was committed.

Sec. 12. That if any person shall willfully and maliciously ^{Arson} burn, or cause to be burned, any dwelling house, kitchen, smoke house, shop, barn, stable, store house, ware house, malt house,

still house, mill, pottery, or other building, the property of any other person; or any church, meeting house, court house, work house, jail, or other public buildings; or any ship, boat, or other water craft; or any bridge of the value of fifty dollars, erected across any of the waters within this State: every person so offending shall be deemed guilty of arson, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than twenty, nor less than three years.

Attempt to com-
mit arson

Sec. 13. That if any person shall willfully and maliciously set fire to any of the buildings or other property described in the foregoing section, with intent to burn or destroy the same; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Burglary

Sec. 14. That if any person shall, in the night season, willfully, maliciously and forcibly, break and enter into any dwelling house, kitchen, smoke house, shop, office, store house, ware house, malt house, still house, mill, pottery, factory, water craft, church, or meeting house, with intent to kill, rob, commit a rape, or with intent to steal property of any value, or commit any deed by this act declared criminal; every person so offending shall be deemed guilty of burglary, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for not more than ten, nor less than three years.

Robbery

Sec. 15. That if any person shall forcibly and by violence, or by putting in fear, take from the person of another any money or personal property, of any value whatever; every person so offending shall be deemed guilty of robbery, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than twenty, nor less than three years.

Entering house
&c. by night or
day without
breaking, and at-
tempting to com-
mit a felony

Sec. 16. That if any person shall willfully and maliciously, either in the day time or in the night season, enter any dwelling house, kitchen, shop, store, ware house, malt house, still house, mill, factory, pottery, water craft, church or meeting house, smoke house, barn or stable, and shall attempt to kill, disfigure or maim any person, rob, stab, commit a rape or arson; every person so offending, his or her aiders or abettors, counsellors or procurers, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Assault with in-
tent to commit
murder, rape, or
robbery

Sec. 17. That if any person shall assault another, with intent to commit a murder, rape or robbery, upon the person so assaulted; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Sec. 18. That if any person shall steal any money, or other personal goods or chattels, the property of another, of the value of fifty dollars or upwards; the person so offending shall be deemed guilty of larceny, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years. Grand larceny

Sec. 19. That if any person shall steal or maliciously destroy any bank bill or bills, or promissory note or notes, bill of exchange, order, warrant, draft, check, or bond, given for the payment of money, of fifty dollars or upwards, knowing them to be such; every such person shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years. Stealing or destroying bank notes &c.

Sec. 20. That if any person shall receive or buy any bank bill or bills, or promissory note or notes, bill of exchange, order, draft, warrant, check or bond, given for the payment of money, of fifty dollars or upwards, which shall have been stolen, knowing the same to be stolen, with intent to defraud the owner thereof; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years. Receiving & buying stolen bank bills, &c., knowing them to be stolen

Sec. 21. That if any person shall falsely personate another before any court of record, or judge thereof, or before any justice of the peace, clerk of either the supreme court or court of common pleas, or any other officer of this State, which is, or hereafter may be, authorized to take the acknowledgment of deeds, powers or warrants of attorney, or to grant marriage licenses, with intent to defraud any person, body politic or corporate; any person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for any space of time not exceeding six, nor less than three years. Falsely personating

Sec. 22. That if any person shall falsely make, alter, forge or counterfeit any record or other authentic matter of a public nature; or any charter, letters patent, deed, lease, writing obligatory, will, testament, annuity, bond, covenant, bank bill or note, check, draft, bill of exchange, contract, or promissory note, for the payment of money or other property; or any acceptance of a bill of exchange; or the number or principal sum of any accountable receipt, for any note or any order, or warrant or request for the payment of money, or the delivery of goods and chattels of any kind; or any acquittance or receipt either for the money or goods; or any acquittance, release, or discharge of any debt, account, action, suit, demand, or other thing, real or personal; or any plat, draft or survey of lands; or any transfer or assurance of money, stock, goods, chattels, or other property whatever; or any letter of attorney; or any power to receive money, or to receive and transfer stock or Forgery

annuities; or to let, lease, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal; or any bills drawn by the auditor of public accounts, for the payment of money at the treasury, with intent to damage or defraud any person or persons, body politic or corporate; or shall utter or publish, as true and genuine, or cause to be uttered or published, as true and genuine, any of the above-named false, altered, forged or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged or counterfeited, with intent to prejudice, damage or defraud any person or persons, body politic or corporate: every person so offending shall be deemed guilty of forgery, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for any space of time not more than twenty, nor less than three years.

Mayhem, &c.

Sec. 23. That if any person shall voluntarily, unlawfully, and on purpose, cut or bite the nose, lip or lips, ear or ears, or cut out or disable the tongue, put out an eye, slit the nose, ear, or lip, cut or disable any limb or member, of any person, with intent to murder, kill, maim or disfigure such person; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than twenty, nor less than three years.

Stabbing and shooting with intent to kill, wound or maim

Sec. 24. That if any person shall shoot, stab, or shoot at any other person, with intent to kill, wound or maim: every person [so offending] shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than five, nor less than three years.

Duelling, challenging to fight duels, etc. etc.

Sec. 25. That if any person shall engage [in,] or fight a duel with another, or shall be second to such person who shall fight a duel; or if any person shall, by word, message, letter, or in any other way, challenge another to fight a duel, or shall accept a challenge to fight a duel, although no duel be fought; or shall knowingly be the bearer of such challenge; or shall advise, prompt, encourage or persuade any person to fight a duel, or challenge another to fight a duel, whether such duel be or be not fought: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years; and shall forever after be incapable of holding any office of honor, profit or trust, within this State: *Provided however,* That if death ensue from such duel, the person or persons concerned shall be deemed guilty of murder, and shall be punished for murder in the first or second degree, (as the case may be,) as is provided in this act; any thing in this section to the contrary notwithstanding.

If death ensue, persons concerned shall be deemed guilty of murder

Receiving or

Sec. 26. That if any person shall receive or buy any goods or chattels, of the value of fifty dollars or upwards, that shall

have been stolen or taken by robbers, knowing the same to be stolen or taken by robbery, with intent to defraud the owner; or shall harbor or conceal any thief or robber, knowing him or her to be such: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

Sec. 27. That if any person shall steal any horse, mare, gelding, foal or filley, ass or mule, of any value; or if any person shall receive or buy any horse, mare, gelding, foal or filley, ass or mule, that shall have been stolen, knowing the same to have been stolen, with intent, by such receiving or buying, to defraud the owner; or if any person shall conceal any horse thief, knowing him to be such; or if any person shall conceal any horse, mare, gelding, foal or filley, ass or mule, knowing the same to have been stolen: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than fifteen, nor less than three years.

Sec. 28. That if any person shall counterfeit any of the coins of gold, silver or copper, currently passed in this State; or shall utter or put off any such counterfeit coin or coins, knowing them to be such; or shall make any instrument for counterfeiting any of the coins aforesaid: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years.

Sec. 29. That if any person shall sell, barter, or in any manner dispose of, any false, forged, or counterfeit bank note or notes; or shall sell, barter, or in any manner dispose of, any counterfeit bank note or notes, the same not being filled up, or the signatures thereto forged or affixed, whether by the single bill or by sheets; or if any person shall be detected with any such counterfeit bank notes in his possession, for the purpose of selling, bartering or disposing of the same; or if any person shall make, utter, publish, pass or put in circulation, any note or notes, bill or bills, purporting to be the note or notes, bill or bills of a bank, company or association, which never did in fact exist; such persons, knowing at the time of publishing, passing, or putting in circulation, any such note or notes, bill or bills, that the bank, company or association, purporting to have issued the same, never did exist; every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for not more than seven, nor less than three years.

Sec. 30. That if any person shall engrave any plate for striking or printing any false or counterfeit bank notes, knowing it to be designed for that purpose, or shall knowingly have in his possession, and secretly keep any plate, for the purpose

buying stolen goods, or harboring thief, with knowledge

Horse stealing, buying stolen horse, concealing the thief or horse, with knowledge

Counterfeiting coin, uttering counterfeit coin, or making any instrument for counterfeiting

Selling or disposing of counterfeit or altered bank notes, by single bill or sheet, having the same in possession for the purpose of selling, making or passing notes on fictitious banks, &c

Engraving any plate for striking counterfeit notes, possessing or secretly keeping such plate, &c

aforesaid; and if any person shall engrave, cut, indent, or carve any piece or pieces of brass, copper, or any other metal for striking, printing, or altering any of the writing, printing or figures, of any bank note or notes, bill or bills, knowing them to be designed for that purpose, or shall knowingly have in his possession, and secretly keep the same for the purpose aforesaid: every person so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than ten, nor less than three years.

Attempting to pass any counterfeit coin or bank note with knowledge

Sec. 31. That if any person shall attempt to pass any base or counterfeit coin or coins, knowing them to be such; or shall attempt to pass any false, forged, and counterfeited bank note or notes, knowing [them] to be such: every person so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, for not more than six, nor less than three years.

Selling land without title.

Sec. 32. That if any person shall knowingly sell, and convey, any tract or parcel of land, without having a title to the same either in law or equity, evidenced by a written contract, devise, descent, or deed of conveyance, with intent to defraud the purchaser; every person so offending, shall be deemed guilty of a fraud, and upon conviction thereof, shall be imprisoned in the penitentiary, and kept at hard labor, not more than seven, nor less than three years.

In trials for murder, jury to ascertain the degree of murder &c.

Sec. 33. That in all trials for murder, the jury before whom such trial is had, if they find the prisoner guilty thereof, shall ascertain in their verdict whether it be murder in the first or second degree, or manslaughter: and if such prisoner be convicted by confession in open court, the court shall proceed by examination of witnesses, to determine the degree of the crime, and shall pronounce sentence accordingly.

Accessories, how punished

Sec. 34. That if any person shall aid, abet, or procure any other person to commit any one of the offences by this act made criminal; every person so offending, shall, upon conviction thereof, be imprisoned in the penitentiary, and kept at hard labor, for any time between the respective periods for which the principal offenders could be imprisoned for the principal offence: or if such principal offender would, on conviction, be punishable with death, or be imprisoned for life, then such aider, abettor or procurer, shall be imprisoned for life, or be punished with death, as the case may require.

Accused to be tried in the county where mortal blow, &c. be given, though the person die in another county

Sec. 35. That if any person shall give any mortal blow, or administer any poison, to another, in any county within this State, with intent to kill, and the party so stricken [or poisoned,] and shall thereof afterwards die, in any other county or State; the person giving such mortal blow, or administering such poison, may be tried and convicted of murder or manslaughter, (as the case may be,) in the county where such mortal blow was given, or poison administered.

Sec. 36. That if any person or persons shall administer poison to another, with intent to destroy or take [the] life of the person or persons to whom the same shall be administered, or to do him, her or them an injury; or if poison shall be prepared with the intent aforesaid, and the same shall be taken by any person or persons, whereby an injury to such person or persons may be done: the person or persons so offending, their aiders and abettors, shall be deemed guilty of a high misdemeanor, and, upon conviction thereof, shall be imprisoned in the penitentiary, at hard labor, for any space of time not more than fifteen, nor less than three years.

Administering poison with intent to kill, or preparing it with that intent, &c

Sec. 37. That in all cases where any person shall be convicted of any offence, by this act declared criminal, the court shall declare, in their sentence, for what period of time, within the respective periods prescribed by law, such convict shall be imprisoned at hard labor in the penitentiary; and shall, moreover, determine and declare, in their sentence, whether any, and for what period of time, such convict shall be kept in solitary confinement in the cells of the penitentiary; and shall render judgment against such convict for costs of prosecution, and award execution thereon against the goods and chattels, lands and tenements, of said convict.

When person convicted, or if the court shall declare in their sentence

Judgment for costs, &c

Sec. 38. That the mode of inflicting the punishment of death, in all cases under this act, shall be by hanging by the neck until the person is dead: and the sheriff, and, in case of his death, inability, or absence, the coroner of the proper county in which sentence of death shall be pronounced by this act, shall be the executioner.

Punishment of death by hanging, sheriff to be executioner

Sec. 39. That any person sentenced to be punished for any crime specified in this act, (whose sentence shall not be reversed or annulled,) except under the third and twenty-fifth sections, shall be deemed incompetent to be an elector, juror or witness, or to hold any office of honor, trust or profit within this State, unless the said convict shall receive from the Governor of this State a general pardon, under his hand and the seal of the State; in which case said convict shall be restored to all his civil rights and privileges.

Convict disfranchised, &c

Disqualification removed by general pardon

Sec. 40. That "An act for the punishment of crimes," passed February twenty-sixth, eighteen hundred and twenty-four; "An act to amend the act, entitled 'An act for the punishment of crimes,'" passed January sixth, eighteen hundred and twenty-seven; "An act to amend the act, entitled 'An act for the punishment of crimes,'" passed February twenty-second, eighteen hundred and thirty; be, and the same are hereby repealed: *Provided*, That any person or persons, who may have committed any crime, punishable under the provisions of the several acts hereby repealed, prior to the taking effect of this act, shall be prosecuted and punished according to the provisions of the acts hereby repealed, in the same manner such person or per-

Acts repealed

Proviso in relation to crimes committed before this act takes effect

PUNISHMENT

sons might or ought to be prosecuted and punished, if this act had not passed.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 3, 1831.

AN ACT for the punishment of certain offences therein named.

Housebreaking in the night, and committing or attempting personal violence, &c
 Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall, in the night season, unlawfully break open and enter any mansion house, shop, store, ship, boat or other water craft, in which any person shall reside or dwell, and shall commit, or attempt to commit, any personal violence or abuse, or shall be so armed with any dangerous weapon as to indicate a violent intention; the person so offending shall, upon conviction thereof, be fined in any sum not exceeding three hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days, at the discretion of the court.

The same in the day time
 Sec. 2. That if any person shall, in the day time, unlawfully break open and enter any mansion house, shop, store, ship, boat or other water craft, in which any person shall or may dwell or reside, and shall commit, or attempt to commit, any personal abuse, force or violence; he or she so offending, shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding twenty days, at the discretion of the court.

Post larceny, and destruction of bank notes etc, of less value than fifty dollars
 Sec. 3. That if any person shall steal any money, or other goods and chattels of any kind whatever, of less value than fifty dollars, the property of another; or shall steal or maliciously destroy any bank bill, promissory note, bill of exchange, order, warrant, draft, check or bond, given for the payment of any sum under fifty dollars, the property of another; every person so offending, on conviction thereof, shall make restitution to the party injured, in two fold the value of the property stolen, and be fined in any sum not exceeding two hundred dollars, or shall be imprisoned in the county jail, in a dungeon or cell thereof, if such jail contain either, and shall be fed on bread and water only, during his or her confinement, for any time not exceeding thirty days: any, or all of the foregoing punishments, may be inflicted according to the aggravated nature of the offence: the sheriff shall receive twelve and a half cents only, per day, for thus subsisting the prisoner on bread and water.

Sheriff's fees for subsisting prisoner on bread and water

Sec. 4. That if any person shall conceal any stolen money, goods or chattels of any kind whatever, of less value than fifty dollars; the person so concealing, knowing the same to have been stolen, shall be considered as an aider, abettor or accomplice, and, on conviction thereof, shall be fined for every such offence, in any sum not exceeding two hundred dollars, or shall be imprisoned in the county jail, in a dungeon or cell thereof, if any there be in such jail, and shall be fed on bread and water only during his or her confinement, for any term not exceeding thirty days, or either, or both, at the discretion of the court.

Concealing stolen goods or money of less value than fifty dollars, knowing the same to be stolen

Sec. 5. That if three or more persons shall assemble together, with intent to do any unlawful act, with force and violence, against the person or property of another, or to do any unlawful act against the peace; or, being lawfully assembled, shall agree with each other to do any unlawful act as aforesaid, and shall make any movement or preparation therefor: the persons so offending shall, each, on conviction thereof, be fined in any sum not exceeding two hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and fed on bread and water only, not exceeding ten days.

Riot

Sec. 6. That whenever three or more persons shall be assembled as aforesaid, and proceed to commit any of the offences aforesaid, it shall be the duty of all judges, justices of the peace and sheriffs, and all ministerial officers, immediately, upon actual view, or as soon as may be, on information, to make proclamation in the hearing of such offenders, commanding them, in the name of the State of Ohio, to disperse and depart to their several homes or lawful employments; and if, upon such proclamation, such persons shall not disperse and depart as aforesaid, it shall be the duty of such judges, justices of the peace and sheriffs, and all other ministerial officers, respectively, to call upon all persons near, and, if necessary, throughout the county, to aid and assist in dispersing and taking into custody all persons assembled as aforesaid: and military officers and others, called on as aforesaid, and refusing to render immediate assistance, shall each, upon conviction thereof, be fined in any sum not exceeding twenty-five dollars.

Judges and other peace officers to warn rioters to disperse, and may call to their aid the power of the county

Persons refusing assistance, to be fined

Sec. 7. That if any person shall forcibly obstruct any of the authorities aforesaid, or if any three or more persons shall continue together after proclamation made as aforesaid, or attempted to be made and prevented by such rioters; or in case of no proclamation, any three or more persons, being assembled as aforesaid, shall commit any unlawful act as aforesaid: every such offender, upon conviction thereof, shall be fined in any sum not exceeding five hundred dollars, and imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days; and shall, moreover, find security for good behaviour, and to keep the peace, for a time not exceeding one year.

Obstructing authorities, or continuing together after proclamation, &c. how punished

Sec. 8. That if any of the persons so unlawfully assembled, shall be killed, maimed, or otherwise injured, in consequence of resisting the judges or others in dispersing and apprehending, or in attempting to disperse and apprehend them, said judges, justices of the peace, sheriffs and other ministerial officers, and others acting by their authority, or the authority of either of them, shall be holden guiltless: *Provided*, Such killing, maiming or injury, shall take place in consequence of the use of necessary and proper means to disperse or apprehend any such persons so unlawfully assembled.

Sec. 9. That if any person shall abuse any judge or justice of the peace, resist or abuse any sheriff, constable, or other officer, in the execution of his office; the person so offending shall, upon conviction thereof, be fined in any sum not exceeding two hundred dollars, or imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding twenty days, or both, at the discretion of the court.

Sec. 10. That if any person shall unlawfully assault or threaten another in a menacing manner, or shall unlawfully strike or wound another; the person so offending shall, upon conviction thereof, be fined in any sum not exceeding one hundred and fifty dollars, or imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court: and shall, moreover, be liable to the suit of the party injured.

Sec. 11. That if any judge, justice, coroner, constable, jailor, or other officer of this State, either judicial or ministerial, shall knowingly ask, demand or receive, any fee or reward to execute and do his duty, other than is or shall be allowed by the laws of this State: every person so offending shall, upon conviction thereof, be fined in any sum not exceeding two hundred dollars, or imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court; and for seven years thereafter, be incapable of holding any office of honor, profit or trust, in this State.

Sec. 12. That if any person, by any false pretence or pretences, shall obtain from any other person, any money, goods, merchandise or effects whatsoever, with intent to cheat and defraud such person of the same; or shall fraudulently make and transfer any bond, bill, deed of sale, gifts, grants, or other conveyances, to defeat his creditors of their just demands: such person so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court.

Sec. 13. That if any person shall take upon himself to exercise or officiate in any office or place of authority, in this

If any rioter be killed in resisting peace officers, the slayer held guilty

Provide

Resisting or abusing officers in the execution of their offices

Assault and battery

Officer demanding or receiving unlawful fees, how punished

Incapable of holding office for seven years

Obtaining money, etc. by false pretences, or making fraudulent transfers of property

Usurpation of, or oppression in office

State, without being legally authorized; or if any person, by color of his office, shall willfully and corruptly oppress any person, under pretence of acting in his official capacity: the person so offending shall, upon conviction thereof, be fined in a sum not exceeding two hundred and fifty dollars, or imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court.

Sec. 14. That if any judge, justice of the peace, clerk of any court, sheriff, coroner, constable, attorney or counsellor at law, shall encourage, excite and stir up, any suit, quarrel or controversy, between two or more persons, with intent to injure such person or persons; such judge, justice of the peace, clerk, sheriff, constable, attorney or counsellor at law, shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and shall be answerable to the party injured, in treble damages.

Officers stirring up or encouraging suits, quarrels, etc.

Sec. 15. That if any sheriff, coroner, constable, jailer, clerk, county recorder, county auditor, county treasurer, or county assessor, by color of, or in execution of, his office, shall designedly, willfully or corruptly injure, defraud or oppress any person, or shall attempt to defraud, injure or oppress any person; such sheriff, coroner, constable, jailer, clerk, county recorder, county auditor, county treasurer or county assessor, shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars, and be answerable to the party so injured, defrauded or oppressed, in treble damages.

Officers corruptly injuring any one by color of his office, etc.

Sec. 16. That if any person shall knowingly, willfully and maliciously, demolish, cut down or destroy any private, public, or toll bridge; cut, fell, deface, alter or remove any land mark, corner or bearing tree, properly established: the person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days, or both, at the discretion of the court.

Destroying bridges, and altering or removing land marks

Sec. 17. That if any two persons shall agree and willfully fight or box at fisticuffs; the persons so offending shall be deemed guilty of an affray, and upon conviction thereof, shall be fined each, in a sum not exceeding fifty dollars, or be imprisoned and kept in close confinement in the county jail, not exceeding ten days, or both, at the discretion of the court.

Affray

Sec. 18. That if any person shall willfully and maliciously alter, deface, break down or destroy any monument or tombstone, erected or set up to perpetuate the memory of any deceased person; every person so offending shall, upon conviction thereof, be fined in any sum not exceeding two hundred dollars, and be kept in solitary confinement in the cell or dungeon of the county jail, and be fed on bread and water only, not exceeding thirty days, at the discretion of the court.

Defacing or destroying monument or tombstone

Sec. 19. That if any person shall wantonly dig or take up any corpse or dead human body, buried or entombed in any cemetery or burying ground, either public or private, or shall attempt so to do; or shall carry away from such cemetery or burying ground, any such corpse or dead body; or shall aid, assist, or be any way concerned, either in the attempt, or in digging or taking up, or in carrying away such corpse or dead body, as aforesaid: every person offending in either of the aforesaid instances, shall, upon conviction thereof, be fined in any sum not exceeding one thousand dollars, or be imprisoned in the cell or dungeon of the county jail, and fed on bread and water only, not exceeding thirty days, or both, at the discretion of the court.

Sec. 20. That if any person shall willfully and maliciously alter or deface any artificial ear mark or brand, upon any horse, mare, foal, filly, mule or ass, sheep, goat or swine, cow, ox, steer, bull or heifer, the property of another; every person so offending shall, on conviction thereof, be fined in any sum not exceeding fifty dollars, and be liable in treble damages to the party injured.

Sec. 21. That if any person shall barter or sell any spirituous or other liquors; of an intoxicating quality, to any Indian or Indians, within this State; every person so offending shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, or be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court: *Provided*, That nothing in this section shall extend to any tavern keeper who shall sell to any traveling Indians: *Provided, also*, The same shall not exceed one gill to each Indian.

Sec. 22. That if any person, having been called upon by the sheriff or other ministerial officer, in any county in this State, to assist such sheriff or other officer in apprehending any person charged with, or convicted of, any offence against any of the laws of this State, or in securing such offender when apprehended, or in conveying such offender to the jail of the county, shall neglect or refuse to render such assistance; every person so offending shall, upon conviction thereof, be fined in any sum not exceeding fifty dollars.

Sec. 23. That if any person shall knowingly send or deliver any letter or writing, with or without a name subscribed thereto, or signed with a fictitious name, containing willful and malicious threats of injury of any kind whatever, or with intent, or for the purpose of, extorting money or other valuable things, from any person; every person so offending shall, upon conviction thereof, be fined in any sum not less than fifty, nor more than five hundred dollars, or be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court.

Digging up dead body, attempting so to do, or aiding therein

Altering or defacing ear mark or brand

Selling intoxicating liquors to Indians

Proviso in relation to tavern keepers

Refusing to aid officer in apprehending criminal, &c.

Sending or delivering threatening letter to extort money, &c.

Sec. 24. That if any married woman shall hereafter desert her husband, and live and cohabit with another man in a state of adultery; she shall, upon conviction thereof, be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days: And if any married man shall hereafter desert his wife, and live and cohabit with any other woman in a state of adultery; or if any married man, living with his wife, shall keep any other woman, and notoriously cohabit with her in a state of adultery; or if any unmarried man shall live and cohabit with a married woman in a state of adultery: every person so offending shall, on conviction thereof, be fined in any sum not exceeding two hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread [and water] only, not exceeding thirty days, at the discretion of the court. Living and cohabiting in adultery

Sec. 25. That if any unmarried persons shall live and cohabit together in a state of fornication; such persons, so offending, shall each, on conviction thereof, be fined in any sum not exceeding one hundred dollars, and be imprisoned in the cell or dungeon of the county jail, not exceeding ten days. Living in a state of fornication

Sec. 26. That if any person shall write, print or publish any false or malicious libel, of, or concerning, another; or shall cause or procure any such libel to be written, printed or published: every person so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and, moreover, be liable to the party injured. Libel

Sec. 27. That if any sheriff, coroner, jailer, or other person whatsoever, having any offender in custody, charged with, or convicted of, any offence made punishable by the laws of this State, shall voluntarily suffer such offender to escape and go at large; every sheriff, coroner, jailer or other person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in close confinement, not exceeding ten days, or both, at the discretion of the court. Sheriff, etc. suffering criminal to escape

Sec. 28. That if any person shall rescue by force any offender, charged with, or convicted of, any offence, by the laws of this State made punishable with imprisonment, from any jail or other place of confinement, or from the custody of any officer, or other person charged with the safe-keeping of such offender; every person so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days. Rescue

Sec. 29. That if any person shall aid or assist any prisoner confined in any jail or other place of confinement, charged with, or convicted of, any offence against the laws of this State, to make his or her escape from such jail or place of confinement, although no escape be actually made; every person so offending shall, upon conviction thereof, be fined, not more Assisting prisoners to escape, though no escape be made

than five hundred, nor less than fifty dollars, or be imprisoned in the cell or dungeon of the jail of the county, not exceeding thirty days, or both, at the discretion of the court.

Attempting to
corrupt or influ-
ence juror or
witness

Sec. 30. That if any person shall attempt to corrupt or influence any juror or witness, either by promises, threats, letters, money, or other undue means, either directly or indirectly; every person so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, and imprisoned in the cell or dungeon of the jail of the county, not exceeding thirty days.

Juror or witness
receiving bribe

Sec. 31. That if any juror or witness shall corruptly take and receive any money, goods, chattels, or other reward, either directly or indirectly, in any action or suit instituted before any court having jurisdiction thereof; such juror or witness so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, and imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding thirty days.

Witness refusing
to testify

Sec. 32. That if any person, legally called upon to give testimony before any court or other authority in this State, authorized to administer oaths and affirmations, shall refuse to take an oath or affirmation; such court or authority may commit the person so refusing to prison, until he or she shall consent to take such oath or affirmation: and after the person committed to prison, as aforesaid, shall have taken the oath or affirmation required, the court or authority aforesaid may moreover punish such person for such refusal, by a fine not exceeding twenty dollars.

Bribery of judge,
justice, or arbi-
trator

Sec. 33. That if any person shall, directly or indirectly, in any way or manner, give, promise or contract to give, any money or other valuable thing, with intent to obtain, procure, or influence the opinion, judgment or decree of any judge or justice of the peace of this State, or arbitrator, in any action, plea, suit, complaint, indictment, controversy, matter or cause, depending, or which shall depend, before him or them, or before any court in this State; every person so offending shall, upon conviction thereof, be fined in any sum not less than fifty, nor more than one thousand dollars.

Bribery of a mi-
nisterial officer,
to procure an es-
cape

Sec. 34. That if any person shall, by bribery, persuasion, seduction, or any other arts or means whatever, attempt to prevail upon any ministerial officer, or other person charged with the safe-keeping of any person accused or convicted of any offence against the laws of this State, to permit such person to escape from the custody of such officer or other person; every person so offending shall, upon conviction thereof, be fined in any sum not more than two hundred, nor less than twenty-five dollars.

Malicious burn-
ing of hay, etc.

Sec. 35. That if any person shall willfully or maliciously set fire to, or burn, or cause to be burned, any barrack, or stack of hay, wheat, rye, oats, barley, flax, hemp, or fodder, or

grain of any kind; or any corn crib, or place wherein corn may be deposited; or any fence, boards, plank, scantling, rails, tan-bark or timber, the property of another: every person so offending shall, upon conviction thereof, be fined in any sum not more than five hundred, nor less than ten dollars, and be imprisoned in the cell or dungeon of the jail of the county, not exceeding thirty days, or both, at the discretion of the court; and shall be answerable to the party injured in double damages.

Sec. 36. That if any person shall willfully and maliciously set on fire, or cause to be set on fire, any woods, prairies, or other grounds, within this State, other than his own; or shall intentionally permit the fire to pass from his own prairie or grounds, to the injury of any other person or persons: every person so offending shall, on conviction thereof, for every such offence, be fined in a sum not exceeding fifty dollars, at the discretion of the court, and stand committed until the sentence of the court is complied with; and shall be liable to an action of the party injured, for the damages which he, she or they may have sustained in consequence of such fire.

Sec. 37. That if any person shall willfully and maliciously kill or destroy any horse, mare, foal, filly, mule or ass, sheep, goat, cow, ox, steer, bull, heifer or swine, the property of another: such person shall, upon conviction thereof, be fined in any sum not more than one hundred, nor less than five dollars, and imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding twenty days, at the discretion of the court; and shall, moreover, be liable to the owner of the property killed or destroyed, in double the value thereof: *Provided*, That nothing in this section shall be construed to extend to any person who shall kill any of the before mentioned animals, trespassing in his or her own inclosure.

Sec. 38. That if any person shall willfully and maliciously cut down, saw, bark, or otherwise kill or destroy, any fruit or other tree or trees, standing or growing in any nursery, garden, yard or orchard, the property of another; every person so offending shall, upon conviction thereof, be fined in any sum not more than five hundred, nor less than five dollars: and the owner of the fruit or other tree or trees, thus killed or destroyed, shall recover not less than double the value of the same, from the person or persons killing or destroying said fruit or other tree or trees.

Sec. 39. That if any person shall wrongfully, and without any lawful authority, cut down, fell, box, bore, or otherwise injure or destroy any living tree or trees, standing or growing on any land owned by, or belonging to any other person or persons, body politic or corporate, other than the trees in the preceding section mentioned: every such person so offending shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, nor less than five dollars: and shall more-

over be liable to the action of the party injured, in double damages.

Malicious destruction of ornamental trees

Sec. 40. That if any person shall wantonly, willfully or maliciously cut down, injure or destroy any living ornamental tree or trees, either planted or preserved as such, standing or growing on any common or public ground, or on any street, alley, side walk, avenue or promenade: every such person so offending shall, on conviction thereof, be fined in any sum not more than one hundred dollars, nor less, than five dollars; and shall moreover be liable to the action of the party injured, in double damages.

Demolishing mile stones, etc

Sec. 41. That if any person shall willfully and maliciously demolish, throw down, alter or deface any mile stone, mile board or guide board, on or at the fork of any public road; every person so offending shall, upon conviction thereof, be fined in any sum not exceeding fifty dollars, or be imprisoned not exceeding ten days, or both, at the discretion of the court.

Jailer suffering jail to become unclean

Sec. 42. That if any sheriff or jailer, or any other person having the care and custody of any jail, shall suffer the same to become foul or unclean, so that the health of any prisoner may be endangered; such sheriff, jailer or other person, shall be liable to indictment, and, on conviction, shall be fined in any sum not exceeding one hundred dollars.

Making or drawing any lottery or scheme of chance, or disposing of any property by means thereof

Sec. 43. That if any person shall open, set on foot, carry on, promote, make or draw publicly or privately, any lottery or scheme of chance, of any kind or description, by whatever name, style, or title the same may be denominated or known; or if any person shall, by such ways and means, expose or set to sale any house or houses, lands or real estate, or any goods or chattels, cash or written evidences of debt, or certificates of claims, or any thing or things of value whatever: every person so offending shall, on conviction thereof, be fined in any sum not exceeding five hundred dollars, at the discretion of the court.

Selling lottery tickets, or acting as agent for any lottery to be drawn in or out of this State

Sec. 44. That if any person or persons shall vend, sell, barter or dispose of any lottery ticket or tickets, order or orders, for any number or shares in any lottery or scheme of chance; or shall be in any wise concerned in such lottery or scheme of chance, by acting as agent in this State, for or on behalf of any such lottery or scheme of chance, to be drawn or paid either out of, or within this State: every person shall, upon conviction thereof, be fined in any sum not exceeding two hundred dollars, at the discretion of the court: *Provided*, That nothing in this act contained, shall be so construed as to prevent the drawing or sale of any lottery tickets of lotteries authorized by any law of this State.

Provided as to lotteries authorized by law of this State

Selling unwholesome provisions

Sec. 45. That if any butcher or other person, shall knowingly sell any unwholesome flesh of a deceased animal, or other unwholesome provision; he or she shall, upon conviction thereof, be fined in any sum not exceeding fifty dollars,

Sec. 46. That if any person shall build, erect, continue, or keep up any dam, or other obstruction, in any river or stream of water in this State, and thereby raise an artificial pond, or produce stagnant waters, which shall be manifestly injurious to the public health and safety: every person so offending shall, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, at the discretion of the court; and the court shall, moreover, order every such nuisance to be abated or removed.

Sec. 47. That when any warrant, legally issued by any magistrate in this State, in any criminal case, shall be delivered into the hand of any constable to be executed, whose duty it shall be to execute such warrant, it is hereby made the duty of such constable to serve the same immediately; and if such constable shall neglect or delay to serve any such warrant, delivered to him as aforesaid, when in his power to serve the same, either alone or by calling upon assistance, according to law, such constable shall, if the offence charged for which the warrant issued be punishable with death or imprisonment in the penitentiary of this State, upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or imprisoned in the county jail ten days, or both, at the discretion of the court.

Sec. 48. That if any constable shall be guilty, as specified in the preceding section, of neglect or delay in serving any warrant, when the offence charged for which such warrant may issue, be an offence not punishable by death or imprisonment in the penitentiary; such constable shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars, or imprisoned not exceeding ten days, or both, at the discretion of the court.

Sec. 49. That a conviction of either of the offences specified in the two preceding sections of this act, shall be a forfeiture of his office of constable, and the same shall immediately become vacant.

Sec. 50. That where any jail, in any county in this State, shall not have a cell or dungeon therein, then, and in that case, when the court shall sentence any person or persons to imprisonment in the cell or dungeon of any jail, under the provisions of this act, the person or persons so sentenced, shall be confined in that part of the jail usually allotted to the confinement of criminals.

Sec. 51. That if any sheriff or jailer, or any other person having the care and custody of any jail, shall suffer any person sentenced to solitary confinement, and to be fed on bread and water only, to be dealt with in a manner less severe than that intended by the sentence, or to be fed with food different from that intended by the sentence, [such sheriff or jailer] shall, upon conviction thereof, be fined in any sum not exceeding one hundred dollars: *Provided*, That nothing in this section shall be

Producing artificial ponds or stagnant waters

Constable neglecting to serve warrant in criminal cases

Constable neglecting to serve warrant in cases of minor offences

Conviction, a forfeiture of office

Where no cell in jail, prisoners confined in the room allotted to criminals

Sheriff: dealing with prisoner less severely than sentence warrants

Proviso in case of sickness

so construed [as] to prevent medical aid from being afforded to any sick or disabled prisoner.

Prosecutions to be by indictment, etc.

Sec. 52. That all prosecutions under the provisions of this act, shall be by indictment before the court of common pleas in the county where the offence shall have been committed, except in cases otherwise provided for by this act; and all persons imprisoned under the same, shall be imprisoned in the jail of the proper county.

Prosecution for larceny barred in three years, other offences in one

Sec. 53. That no person shall be indicted or prosecuted for any offence against the provisions of this act, except for the offence of larceny; for which the offender may be indicted and punished any time within three years from the commission of the offence; unless such indictment shall be found, or such prosecution commenced, within one year from the time such offence was committed.

Fines paid into county treasury

Sec. 54. That all fines and forfeitures incurred under this act, shall be paid into the county treasury where the crime was committed.

Every indictment to be indorsed, and how

Sec. 55. That no bill of indictment for any offence specified in this act, shall be found a true bill by any grand jury, unless the name of the prosecutor be indorsed thereon, except such bill be found upon testimony, sworn and sent to the grand jury by order of the court, at the request of the prosecuting attorney, or the foreman of the grand jury; in which case, the fact that the bill was found upon testimony sworn, and sent to the grand jury by order of the court, shall be indorsed on the bill, instead of indorsing the name of the prosecutor.

When prosecutor liable for costs, etc.

Sec. 56. That in all cases where the prosecutor's name is indorsed, and the bill found a true bill by the grand jury, and upon trial the defendant is acquitted, the prosecutor shall be liable for costs; and the court, at the term at which such acquittal shall take place, or at any subsequent term, shall render judgment against such prosecutor for such costs, unless the court shall be of opinion that there were reasonable grounds for instituting the prosecution: in all such trials, the prosecutor may be admitted as a witness, and his credibility left to the jury.

Persons convicted under this act, may be recommit- ted to keep the peace for 2 years

Sec. 57. That any person convicted of any offence against the provisions of this act, may be required by the court to enter into a recognizance with sufficient security, in such sum as the court may deem proper, to keep the peace and be of good behaviour, for such length of time, not exceeding two years, as the court shall direct; and the court may order such person to stand committed until such order be complied with, or such person be otherwise discharged by due course of law.

Acts repealed

Sec. 58. That an act, entitled "An act for the punishment of certain offences therein named," passed February the tenth, eighteen hundred and twenty-four; and an act amendatory thereto, passed January the sixteenth, eighteen hundred and twenty-seven; and the act to prevent lotteries, passed Febru-

ary the twenty-second, eighteen hundred and thirty; be, and the same are hereby repealed: *Provided*, That all offences committed prior to the taking effect of this act, shall be prosecuted and punished, in the same manner as if this act had never been passed. Provide as to offences committed

This act shall take effect and be in force from and after the first day of June next,

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 8, 1831.

AN ACT directing the mode of trial in criminal cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That when any person shall have been committed to jail, charged with the commission of any crime or offence, and wishes to be discharged from such imprisonment, the sheriff or jailer, at the request of said person, shall forthwith give the associate judges, clerk and prosecuting attorney of the county, at least three days' notice of the time of holding an examining court, whose duty it shall be to attend according to such notice: and the judges having met and heard the testimony, shall, at their discretion, discharge the accused, admit him or her to bail, or remand to prison; and they shall have power to adjourn from day to day, during the examination. Associate judges to constitute an examining court, how convened
Their powers and duties

Sec. 2. If said court shall adjudge such prisoner ought to be held to bail, they shall recognize him or her in such sum and with such security, as they shall deem sufficient, conditioned for such person's appearance at the next term of the court of common pleas in said county; and in case the prisoner fails to give security, he or she shall be remanded to prison: and in all cases where the prisoner is remanded or held to bail, the court shall recognize the witness or witnesses on the part of the State, to appear at the next court of common pleas, to be holden in and for the county where such prisoner is to be tried. Prisoner may be recognized, and failing to give bail shall be remanded to prison
Witnesses to be recognized

Sec. 3. The examining court, if the prisoner fails to give security, shall order their clerk to enter on the journal, in what sum, and with what securities, he or she may be recognized; and at any time thereafter, upon the prisoner giving such security as required by the examining court, any judge of the supreme court, or court of common pleas, may discharge him or her. Court may order the amount of bail, which being given, any judge may liberate

Sec. 4. In all cases where a single judge may recognize a prisoner, under the provisions of this act, he shall forthwith deposit with the clerk of the court of common pleas in said county, the recognizance so taken, and also a warrant directed to the jailer, requiring him to discharge the prisoner. Single judge recognizing prisoner shall deposit recognizance with clerk, etc.

Person charged
with capital
crime may elect
to be tried in
supreme court

Clerk of court of
common pleas to
send transcript
and indictment
to supreme court

Prisoner not electing
to be tried in
R. C. shall
be tried in C. P.

Venire to issue
for 36 jurors having
the qualifications of electors

In supreme court
venire to be served
three days
before the term

Prisoner electing
to be tried in
supreme court,
witnesses to be
recognized to
appear there

Peremptory challenge
of 23 jurors in capital
cases

Prisoner entitled
to a copy of indictment
and panel in certain
cases

Jurors may be
challenged for
cause

Panel may be
filled with bystanders

Sec. 5. When any person, charged with the commission of an offence, the punishment whereof is capital, hath been indicted and arraigned before the court of common pleas, he or she, before pleading thereto, shall be at liberty to declare whether he or she elect to be tried in the supreme court: and if the prisoner elect to be tried in the supreme court, the clerk of the court of common pleas shall truly record the indictment, and forthwith make out a certified transcript of the same, with the proceedings of the court on such indictment, and deposit such transcript, with the original indictment, in the office of the clerk of the supreme court: which clerk shall docket the same, and the supreme court shall proceed therein to trial and judgment.

Sec. 6. If the prisoner do not elect to be tried in the supreme court, then the court of common pleas shall proceed to his or her trial and judgment.

Sec. 7. The clerk of the supreme court or court of common pleas (where the trial may be) shall, at the instance of the prosecuting attorney, make out a venire facias, directed to the sheriff, commanding him to summon thirty-six jurors, having the qualifications of electors, being householders, to appear before the respective courts according to the exigency of the writ; but where the cause is removed to the supreme court, the venire shall be served at least three days before the commencement of the term, and in all cases the sheriff shall return a pannel of the names of the jurors.

Sec. 8. In all cases where a defendant shall elect to be tried in the supreme court, under the provisions of this act, the court before whom such election is made, shall, at the instance of the prosecuting attorney, or defendant, recognize all witnesses in attendance to appear before the supreme court for said county, on the first day of the next term thereof, and not depart without leave.

Sec. 9. Every person indicted for any offence, the punishment whereof is capital, and who has pleaded not guilty, shall be admitted to challenge twenty-three of the jurors peremptorily.

Sec. 10. A copy of the indictment and a copy of the pannel of the jury returned by the sheriff, shall be delivered to every person, who may be indicted for an offence, the punishment whereof is capital, at least twelve hours before the trial; and in all cases where the punishment of the offence is imprisonment in the penitentiary, the accused shall be furnished with a copy of the indictment, at least twelve hours before trial.

Sec. 11. Each prosecuting attorney and defendant shall have the liberty of challenging jurors for cause, the validity of which the court shall try.

Sec. 12. The jurors summoned as herein provided, or such of them as are not set aside on challenge, together with so many of the bystanders, having the qualifications aforesaid, as will make up the number of twelve, or if the whole array be set

aside, twelve of such by-standers, having the qualifications aforesaid, as may not be set aside on challenge, shall be a lawful jury for the trial of the prisoner.

Sec. 13. When any person committed for any offence, the punishment whereof is capital, shall desire to be brought to trial before the end of the term next ensuing after his or her commitment, and no indictment is found against him or her at that term, the court shall discharge such prisoner; unless it appear by affidavit that the witnesses against him or her cannot be produced in time, or where there is evident guilt, or strong presumption of the guilt of the prisoner: and in all cases of imprisonment for other offences, the court may, in their discretion, discharge the prisoner, or require him or her to enter into recognizance in such sum, with good and sufficient security, as the court shall think reasonable, conditioned for the appearance of the prisoner before such court, at the next term thereof.

In capital cases prisoner not indicted at first term shall be discharged, unless, etc.
In other cases court may discharge or recognize

Sec. 14. The court before whom any person shall be indicted, is hereby authorized and required to assign such counsel, not exceeding two, as he or she shall desire, if the prisoner has not the ability to procure counsel; and they shall have free access to the prisoner at all reasonable hours.

Court to assign counsel to indigent prisoner

Sec. 15. If any person indicted for any offence whatever, on being arraigned on such indictment, shall stand mute, a jury shall forthwith be impaneled to try and say whether such person stands mute, obstinately and on purpose, or by the act of God; and if they return their verdict that such person stands mute by the act of God, the court shall remand the prisoner to jail, and shall not proceed against him or her until he or she shall have recovered therefrom: but if the jury find that such person stands mute obstinately and on purpose, then the court shall direct the plea of not guilty to be entered upon the indictment against such person; and in cases where the person indicted refuses to plead or answer to such indictment, the court shall direct the like plea of not guilty to be entered on the indictment: and in all these cases the court shall proceed to the trial of such persons in the same manner as though they had voluntarily pleaded the same plea to said indictment.

Prisoner standing mute, how court shall proceed.

Sec. 16. All criminal cases shall be tried in the county where the offence was committed, unless it shall appear to the court by affidavits, that a fair and impartial trial cannot be had; in which case, the court before whom the cause is pending may direct the person accused to be tried in some adjoining county.

Prisoner to be tried in county where crime is committed, unless the court shall direct a change of venue

Sec. 17. When the venue is changed to an adjoining county, in a criminal case, the clerk of the proper court thereof, after having received the original indictment and a certified transcript of the proceedings thereon, shall issue a venire facias in the same manner as is directed by the provisions of this act; and the trial shall be conducted in all respects as if the offender had been indicted in the county to which the venue is changed: *Provided,*

When venue is changed, trial to proceed as in other cases, but costs to be paid by county where crime was committed

That the costs accruing from a change of the venue shall be paid by the county in which the offence was committed.

When venue is changed, court to issue warrant so remove prisoner
 Sec. 18. When a court has ordered a change of venue, they shall issue a warrant, directed to the sheriff, commanding him safely to convey the prisoner to the jail of the county where he or she is to be tried, there to be safely kept by the jailer thereof until discharged by due course of law.

Witnesses to be recognized to appear in county where prisoner is to be tried
 Sec. 19. When a change of venue is allowed, the court shall recognize the witnesses on the part of the State, to appear before the court in which the prisoner is to be tried.

Person committed for bailable offence may be let to bail by single judge
 Sec. 20. When any person charged with the commission of any bailable offence shall be confined in jail, whether committed by warrant under the hand and seal of any judge or justice of the peace, or by the sheriff or coroner, under any *capias* upon indictment found, it may be lawful for any judge of the supreme court, or president judge of the court of common pleas within his circuit, or associate judge within his county, to admit such person to bail, by recognizing such person in such sum, and with such sureties, as to him shall seem proper, conditioned for his or her appearance before the proper court, to answer the offence wherewith he or she may be charged; and for taking such bail, the judge may, by his special warrant, under his hand and seal, require the sheriff or jailer to bring such accused person before him at the court house of the proper county, at such time as in said warrant the judge may direct.

Supreme court to give sentence according to the finding of the jury
 Sec. 21. In all cases where any person or persons, indicted in the court of common pleas for an offence, the punishment whereof is capital, shall be tried in the supreme court, and found guilty of a less offence, the supreme court shall nevertheless proceed to pronounce against such prisoner the sentence affixed by law to the offence whereof he or she may be found guilty.

Subpoenas for witnesses may issue to any part of the State
 Sec. 22. In all prosecutions for crimes and offences, it shall be the duty of the clerk to issue writs of subpoena for any person within this State, whose testimony may be deemed material on the trial: and it shall [be] lawful for the officer to whom such writ is directed, or his deputy, to serve the same in any county; or such officer, by writing indorsed on such writ, may depute any disinterested person to serve the same.

Service of subpoena by special deputy to be verified by oath
Subpoena may be returned by mail
 Sec. 23. If such subpoena be served by such special deputy, it shall be his duty, after serving the same, to return thereon the manner in which the same was served; and also to make oath or affirmation to the truth of said return, before some person competent to administer oaths; which shall be indorsed on such writ: and the same shall be returned according to the command thereof, by the person serving the same, through the post office, or otherwise.

Fees of witnesses in criminal cases
 Sec. 24. Witnesses summoned by order of the prosecuting attorney, or defendant, or who have been recognized to appear at court, and attending courts, in criminal cases, the punishment whereof is capital, or imprisonment in the penitentiary,

shall be allowed the following fees, to wit: Those residing out of the county where the trial is to be had, seventy-five cents per day, for each day he or she shall actually attend the court, under such summons or recognizance, and seventy-five cents for each twenty-five miles traveling to and from said court; and those residing within such county, the sum of fifty cents per day, for each day's actual attendance under a summons or recognizance, as aforesaid: and in all other cases, where the punishment is less than imprisonment in the penitentiary, the fees for witnesses attending courts under a summons or recognizance, whether residing in or out of the county, shall be fifty cents per day for each day's attendance at court.

Sec. 25. The fees allowed by the previous section, shall be paid by the county treasurer, on the order of the county auditor; and where a defendant is convicted of an offence not punishable capitally, or with confinement in the penitentiary, judgment shall be rendered against the defendant for the costs of all the witnesses; which, when collected, shall be paid into the county treasury: and where a defendant is convicted of an offence punished capitally, or with confinement in the penitentiary, the costs of all the witnesses shall be charged in the bill of costs, and paid in the same manner and from the said fund, that other costs are paid in like cases.

Sec. 26. The act, entitled "An act pointing out the mode of trying criminals," passed January sixth, eighteen hundred and twenty-four; and an act, entitled "An act supplementary to the act pointing out the mode of trying criminals," passed December twenty-seven, eighteen hundred and twenty-four; are hereby repealed.

This act shall be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives,
SAMUEL R. MILLER,
Speaker of the Senate.

March 7, 1831.

AN ACT to allow writs of error in criminal cases.

Sec. 1. Be it enacted by the General Assembly of the State of Ohio, That in criminal cases not punishable with death, writs of error may, on good cause shown, be allowed on the application of the defendant, by the supreme court, or any judge thereof in vacation, as in civil cases; and in criminal cases punishable with death, writs of error may be allowed on a like application, by said court when in session, in open court, or by any two judges thereof in vacation:

Court allowing writ of error in capital cases, to suspend execution, etc. **On hearing, how to proceed**

Sec. 2. That in all cases of conviction, when the punishment shall be capital, the judges or court allowing such writ of error, shall order a suspension of the execution, until such writ of error shall be heard and determined; and upon hearing of such writ of error, they shall order the prisoner to be discharged, a new trial to be had, or appoint a day certain for the execution of the sentence, as the nature of the case may require.

Writ of error may be returnable forthwith, or to the court in bank

Sec. 3. That in all cases of conviction, where the punishment shall be capital, or by imprisonment in the penitentiary, the court, judge or judges, allowing such writ of error, may order the same to be made returnable forthwith, before said supreme court, wherever they may be sitting, or before said supreme court at their next session in bank; and shall also order a suspension of the execution of such sentence.

In other cases when writ is not allowed, defendant may be recognized, etc.

Sec. 4. That in all other cases, not provided for by the second or third sections of this act, the court or judge allowing such writ of error, may order a suspension of the execution of the sentence upon the defendant, on his or her entering into a recognizance, before the clerk of the court of common pleas where such cause was tried, with at least two good and sufficient securities, to be approved of by said clerk, in such sum as shall be specified in the order of the court or judge allowing such writ of error; which recognizance shall be conditioned for the defendant's prosecuting said writ of error to effect, and surrendering himself or herself to the custody of the sheriff of the county in which such conviction was had, in case the judgment of the court of common pleas shall not be reversed, or a new trial be ordered.

Condition of recognizance

Exceptions may be taken to the opinion of the court as in civil cases

Sec. 5. That in all cases where a defendant shall feel himself or herself aggrieved, by any decision of the court of common pleas, he or she may present his or her bill of exceptions to such decision; and it shall be the duty of such court to sign and seal the same, in manner and form as is now provided by law in civil cases: and such bill of exceptions, when signed and sealed, shall be made a part of the record, and shall have the same force and effect as in civil cases.

If defendant be committed to the penitentiary and judgment be reversed, clerk shall certify the same to the keeper

Sec. 6. That when any defendant has been committed to the penitentiary of this State, and the judgment, by virtue of which the commitment is made, shall be reversed on a writ of error, allowed under the provisions of this act, by which reversal the defendant shall be entitled to his or her discharge, or to a new trial, the clerk of the court reversing said judgment, shall, under the seal of the court, forthwith certify the same to the keeper of the penitentiary.

Keeper to discharge prisoner

Sec. 7. That said keeper, on receipt of such certificate, in case a discharge of such defendant be ordered, shall immediately discharge such defendant from the penitentiary.

Or if new trial be ordered, to convey prisoner to the county where convicted

Sec. 8. That in case a new trial be ordered, the keeper of the penitentiary shall forthwith cause said defendant to be taken, and conducted to the county, and committed to the custody of the sheriff or jailer thereof, in which said defendant was convicted.

ed, according to the provisions of the "Act making provision for carrying into effect the act for the punishment of crimes."

Sec. 9. That the act, entitled "An act allowing writs of error in criminal cases," passed on the 22th of January, 1829, be, ^{Act repealed} and the same is hereby repealed.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 7, 1831.

AN ACT for the prevention of certain immoral practices.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person of the age of fourteen years or upwards, shall be found on the first day of the week, commonly called Sunday, sporting, rioting, quarreling, hunting, fishing, shooting, or at common labor, (works of necessity and charity only excepted,) he or she shall be fined in a sum not exceeding five dollars, nor less than one dollar: *Provided,* Nothing herein contained shall be construed to extend to those who conscientiously do observe the seventh day of the week as the sabbath; nor to prevent families emigrating, from traveling; watermen from landing their passengers; superintendents or keepers of toll-bridges, from attending and superintending the same; or ferry-men from conveying travelers over the waters, or persons removing their families, on such days. ^{Sabbath breaking, how punished} ^{Excepted cases}

Sec. 2. That if any tavern keeper or other person shall sell or barter any spirituous liquors on the first day of the week, commonly called Sunday, (except to travelers on a Sunday,) [journey:] such tavern keeper or other person so offending, shall be fined in a sum not exceeding five dollars. ^{Selling spirituous liquors on Sunday}

Sec. 3. That if any person or persons shall at any time interrupt or molest any religious society, or any member thereof; or any persons when meeting or met together, for the purpose of worship, or performing any duties enjoined on, or appertaining to, them, as members of such society: the person or persons so offending shall be fined in any sum not exceeding twenty dollars: and any judge of the court of common pleas, or justice of the peace, within the proper county, be, and they are hereby empowered, authorized and required to proceed against, and punish every person offending against the provisions of this act; and upon view and hearing, may, or on information given on oath or affirmation, shall, if need be, issue his warrant to bring the body of the accused before him, and shall inquire into the truth of the accusation; and if guilty, shall enforce the penalty of this act annexed to the offence: and said offender, (if the judge or justice should think necessary,) may be detained in custody, and com- ^{Disturbing religious societies} ^{Judge of Com. Pleas or Justice of the peace to proceed against offenders under this act}

Provide

mitted until sentence be performed: *Provided*, That this section shall not be so construed, as to deprive any religious society of the right of laying hands upon the person or persons who may be disturbing the congregation, and turning him or them out of the church or place of worship.

Profane swearing

Sec. 4. That if any person of the age of fourteen years and upwards, shall profanely curse or damn, or profanely swear by the name of God, Jesus Christ, or the Holy Ghost; each and every person so offending shall be fined in a sum not exceeding one dollar, nor less than twenty-five cents, for each offence.

Exciting disturbance at public meeting of citizens

Sec. 5. That if any person or persons should be found making or exciting any contention or disturbance at any tavern, court, election, or other meeting of the citizens for the purpose of transacting or doing any business appertaining to, or enjoined on them; the person or persons so offending shall be fined in a sum not exceeding five dollars, nor less than fifty cents, each, and, if necessary, imprisoned until such meeting shall be ready to disperse: *Provided*, The time for which such person or persons may be confined, shall not exceed six hours.

Firing bullets or running horses in any street, or shooting in town or village

Sec. 6. That if any person or persons shall play bullets along or across any street in any town or village within this State; or if any person or persons shall run any horse or horses within the limits of any such town or village; or if any person or persons shall shoot or fire a gun at a target within the limits of any recorded town plat in this State: every person or persons so offending shall be fined in a sum not exceeding five dollars, nor less than fifty cents.

Keeper of public house keeping or permitting hall or ninepin alley

Sec. 7. That if any keeper of a public house, or retailer of spirituous liquors, in this State, shall establish, keep, or permit to be kept, upon his or their lots or premises, any bull [ball] or ninepin alley, or shall, in whole or in part, be interested in any bull [ball] or ninepin alley, upon the lot or premises of another; he or they, upon conviction thereof, shall forfeit and pay to, and for, the use of common schools in the proper township, not less than ten, nor more than one hundred dollars: and this section shall be construed to extend to any alley denominated a ninepin alley, whether such alley is used for playing therein a greater or less number than nine pins.

Exhibiting puppet show, tumbling or slight of hand

Sec. 8. That if any person or persons shall exhibit any puppet show, wire dancing, or tumbling, juggling or slight of hand, within this State, and shall ask and receive any money, or other property, for exhibiting the same; every such person, so offending, shall forfeit and pay, for every such offence, the sum of ten dollars.

Defacing or destroying any advertisement or publication

Sec. 9. That if any person shall intentionally deface, obliterate, tear down, or destroy, in whole or in part, any copy or transcript of, or extract from, any law of the United States or of this State, or any proclamation, publication, advertisement or notification, whatsoever, set up in any public place, within this State, for the public information of any citizen, by the authority

of any law or act of this State; such person shall, on conviction thereof, before any court having jurisdiction of the same, be fined in any sum not exceeding ten dollars, and may be committed to jail for a time not exceeding twenty-four hours, at the discretion of the court.

Sec. 10. That if any person shall expose or offer for sale, at any place where any religious society of people are collected or collecting together, for the purpose of religious worship, or within one mile thereof, any spirituous liquor, cider or beer; such person may be arrested and detained in custody, not exceeding six hours, at any one time, and shall be fined in any sum not exceeding twenty dollars: *Provided*, That nothing in this act shall affect merchants, licensed tavern keepers, inn keepers, distillers or manufacturers of cider or beer, selling ardent spirits, cider or beer, at their usual place of vending the same, or at their residence.

Selling liquors within one mile of any religious meeting

Proviso as to merchants, tavern keepers, &c.

Sec. 11. That any person or persons who shall hereafter confine, or aid or assist in confining, any bull, steer, or other domestic or domesticated animal or animals, either by tying, penning or inclosing the same, for the purpose of bull baiting, bear baiting, or other purpose of torture; or shall aid or assist in torturing the same, when so tied or penned, either by dogs, whips, spears, or other instruments; shall forfeit and pay any sum not exceeding one hundred dollars.

Bull or bear baiting

Sec. 12. That if any person or persons shall publicly exhibit, or aid and assist in exhibiting, the game commonly called cock fighting; such person or persons shall forfeit and pay a fine not exceeding twenty dollars.

Cock fighting

Sec. 13. That if two or more persons shall run a match horse race or races, in any public road in common use, for the purpose of trying the speed of their horses; every person so offending, on conviction thereof before any justice of the peace in the county, shall be fined in any sum not exceeding five dollars, nor less than one dollar, with costs of prosecution.

Horse racing in public roads

Sec. 14. That all fines accruing under the provisions of this act, shall be collected in the name of the State of Ohio, as in other cases of a breach of the peace, and be paid into the township treasury, for the use of common schools in the township in which the offence shall have been committed, within twenty days after collected: and if any officer fail to pay over such fine by him collected, agreeably to the provisions of this act, such officer shall, for any such neglect, forfeit and pay into the township treasury, double the amount of any fine or fines by him collected, to be recovered in a summary way before any justice of the peace having cognizance of the same, at the suit of the township treasurer: *Provided*, That all prosecutions under the provisions of this act, shall be commenced within ten days after the offence is committed; except prosecutions against justices of the peace, for not paying over any fine or fines, as aforesaid.

Fines under this act to be paid into township treasury for the use of schools

Prosecution to be commenced in ten days

HABEAS CORPUS.

Sec. 15. That the act, entitled "An act for the prevention of certain immoral practices," passed on the 19th day of January, 1824, and the act amendatory thereto, passed January 22d, 1825, and the "Act to prevent horse racing on public roads," passed February 22d, 1830, be, and the same are hereby repealed; reserving to the State all rights which may have accrued by virtue of said acts.

This act to take effect from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 17, 1831.

AN ACT securing the benefits of the writ of habeas corpus.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That if any person, except persons convicted of some crime or offence, or for treason or felony, shall have the benefit of the writ of habeas corpus shall be unlawfully deprived of his or her liberty, and shall make application, either by him or herself, or any person on his or her behalf, to any one of the judges of the supreme court, or president or associate judges of the court of common pleas, and does at the same time produce to such judge a copy of the commitment, or cause of detention of such person; or if the person so imprisoned or detained, is imprisoned or detained without any legal authority, upon making the same appear to such judge by oath or affirmation, it shall be his duty forthwith to allow a writ of habeas corpus; which writ shall be issued forthwith by the clerk of the supreme court, or court of common pleas, as the case may require, under the seal of the court whereof the person allowing such writ is a judge, directed to the proper officer, person or persons, who detain such prisoner.

Sec. 2. That it shall be the duty of the officer or person to whom such writ shall be directed, to convey the person or persons so imprisoned or detained, and named in such writ, before the judge allowing the same, or in case of his absence or disability, before some other judge of the same court, on the day specified in said writ; and shall make due return of said writ, together with the day and cause of the caption and detention of such person, according to the command thereof.

Sec. 3. That when the said judge shall have examined into the cause of caption and detention of the person so brought before him, and shall be satisfied that the person is unlawfully imprisoned or detained, he shall forthwith discharge such prisoner.

from said confinement: and in case the person or persons applying for said writ shall be confined or detained in a legal manner, on a charge of having committed any crime or offence, the said judge shall, at his discretion, commit, discharge or let to bail, such person or persons: and if the said judge shall deem the offence bailable, on the principles of law, he shall cause the person charged as aforesaid to enter into recognizance, with one or more sufficient securities, in such sum as the judge shall think reasonable, the circumstances of the prisoner and the nature of the offence charged, considered, conditioned for his appearance at the next court, where the offence is properly cognizable; and said judge shall certify his proceedings, together with the recognizance, forthwith to the proper court; and if the person or persons charged as aforesaid, shall fail to enter into such recognizance, he or they shall be committed to prison by such judge.

Judge may commit, discharge or let to bail

Sec. 4. That if any person to whom such writ of habeas corpus shall be directed as aforesaid, shall neglect or refuse to obey, or make return of the same, according to the command thereof, or shall make a false return of said writ; or upon demand made by the prisoner, or any person on his or her behalf, shall refuse to deliver to the person demanding, within six hours after the demand thereof, a true copy of the warrant or commitment and detainer of such prisoner: every person so offending shall, for the first offence, forfeit to the party aggrieved the sum of two hundred dollars; and for the second offence, four hundred dollars, and shall, if an officer, be incapable to hold his said office.

Persons neglecting or refusing to obey writ of making a false return, shall forfeit, etc.

Sec. 5. That if any clerk of the supreme court, or court of common pleas, shall refuse to issue such writ, after allowance and demand made as aforesaid, he shall forfeit to the party aggrieved, the sum of five hundred dollars.

Clerks refusing shall forfeit, etc.

Sec. 6. That any person who shall be set at large upon any habeas corpus, shall not be again imprisoned for the same offence, unless by the legal order or process of the court wherein he or she shall be bound by recognizance to appear, or other court having jurisdiction of the cause or offence; and if any person shall knowingly, contrary to this act, recommit or imprison, or cause to be recommitted or imprisoned, for the same offence, or pretended offence, any person so set at large, or shall knowingly aid or assist therein; he shall forfeit to the party aggrieved, five hundred dollars, any colorable pretence or variation in the warrant or commitment notwithstanding.

Persons enlarged not to be again imprisoned for same offence

Sec. 7. That if any person of this State shall be committed to prison, or in custody of any officer, for any criminal matter, such prisoner shall not be removed therefrom into the custody of any other officer, unless by legal process, or where the prisoner shall be delivered to some inferior officer to carry to jail, or shall, by order of the proper court, be removed from one place to another within the State, for trial, or in case of fire, infection or other necessity; and if any person after such commitment, shall make out, or sign or countersign, any warrant for such removal, con-

Prisoners not to be removed from custody of an officer to another unless, etc.

trary to this act, he or she shall, for every such offence, forfeit to the party aggrieved, five hundred dollars.

Accessories before the fact to felonies shall not be bailed, etc.
 Sec. 8. That when any person shall appear to be committed by any judge or justice, and charged as accessory before the fact, to any felony, the punishment whereof is capital, which felony shall be plainly and specially charged in the warrant of commitment, such person shall not be removed or bailed by virtue of this act, or in any other manner than if this act had not passed.

Citizens not to be sent out of the State for crimes committed in it
 Sec. 9. That no citizen of this State, being an inhabitant or resident within the same, shall be sent prisoner to any place whatsoever, out of this State, for any crime or offence committed within this State; and every such imprisonment is hereby declared to be illegal: and if any such citizen shall be so imprisoned, he may, for every such imprisonment, maintain an action of false imprisonment, in any court having cognizance thereof, against the person or persons by whom he shall be so imprisoned or transported, contrary to the intention of this act, and against any person who shall contrive, write, seal, sign or countersign any writing for such imprisonment or transportation, or shall be aiding or assisting in the same or any of them, and shall recover treble costs, besides damages; which damages so to be given, shall not be less than five hundred dollars: and every person knowingly concerned in any manner as aforesaid, in such illegal imprisonment or transportation, contrary to this act, and being thereof lawfully convicted, shall be disabled from thenceforth to bear any office of trust or profit within this State: *Provided*, That if any citizen of this State, or person or persons, at any time resident in the same, shall have committed, or be charged with having committed, any treason, felony or misdemeanor, in any other part of the United States or Territories, where he or she ought to be tried for such offence, he, she or they may be sent to the State or Territory having jurisdiction of the offence.

Penalties to be recovered by action of debt
Proviso
Limitation
 Sec. 10. That the penalties in this act made recoverable, shall be recovered by the party aggrieved, his or her executors or administrators, against the offender, his or her executors or administrators, by action of debt, in any court having cognizance of the same: *Provided*, That no person shall be sued or molested for any offence against this act, unless within two years after the time when such offence shall have been committed: but if the party aggrieved shall then be in prison, then within two years after the decease of the person imprisoned, or his or her delivery out of prison; and in every such action it shall be lawful for the defendant to plead the general issue and give the special matter in evidence.

Effect
 This act shall take effect and be in force from and after the first day of June next.

EDWARD TIFFIN,
Speaker of the House of Representatives.
 THOMAS KIRKER,
Speaker of the Senate.

February 22, 1811.

ELECTION OF JUSTICES.

167

AN ACT to provide for the election and resignation of Justices of the Peace.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever any new township shall be set off, the judges of the court of common pleas of the proper county, shall determine on a suitable number of justices of the peace for such township, and the day of election; and the clerk of the court shall transmit a copy of the proceedings thereof to the trustees of the same, who shall immediately give notice to the electors, in the manner pointed out in the second section of this act, to elect said justice so determined on: and should there be no trustees of said township, said clerk shall give notice of such election by causing advertisements to be set up in three public places in said township, not less than ten, nor more than fifteen days, previous to the election, designating the time and place of holding such election.

Sec. 2. That whenever a vacancy is about to happen, or shall actually happen, in the office of justice of the peace, in any township in this State, either by death, removal, absence at any one time for the space of six months, resignation or otherwise, the trustees having notice thereof, shall give notice to the electors of such township to fill such vacancy, by setting up advertisements in three public places in such township, specifying the number of justices to be elected: which notice shall be given, not less than fifteen, nor more than twenty days, previous to holding such election; which shall be held at such place as said trustees shall direct.

Sec. 3. That whenever it shall be made appear to the satisfaction of the court of common pleas of the proper county, that there is not a sufficient number of justices of the peace in any township thereof, and also that public notice had been given in such township, that application would be made for an additional number of justices of the peace, the said court is hereby authorized to add one or more justices to such township, (as may seem just:) and the trustees shall give notice to the electors of such township to elect such justice or justices so added, agreeably to the provisions of said second section of this act: and whenever it shall be made to appear to the court aforesaid, that it is expedient to decrease the number of justices in any township, said court shall be authorized to restrict the number as it may judge proper: *Provided,* That no justice shall be deprived of his commission until the expiration of the term for which he shall have been elected: *And provided also,* That if a part of any township shall be attached to another township, the justices of the peace residing in the limits of that part of the township so attached as aforesaid, shall execute the duties of their respective offices in the township to which the same shall be attached, in the same manner as if they had been elected for such township.

Election of
Justices how
contested

Sec. 4. That if any candidate or elector of the township in which the election was held, shall think proper to contest the election of the person or persons proclaimed elected, such candidate or elector shall make it known to one of the judges of the court of common pleas of such county, within six days after the day of such election, and the points on which the contestor means to contest such election: and it shall be the duty of such judge to communicate the same to the person or persons whose election is contested, specifying the name of the contestor, with the points on which he relies, citing him or them to appear on a day not more than fifteen days from the day of such election, at some convenient place in said township, allowing such person or persons five days' notice of such contest; and said judge shall also direct the clerk of the court of common pleas to withhold the return of such contested election until the same is decided.

Judge to appoint
three freeholders
to try the contest
and issue a sum-
mons for them,
to be served by
a constable

Sec. 5. That the judge, on the same day that he issues a notice to the person or persons whose election is contested, shall appoint three respectable freeholders of his county, not resident in the township in which such election was held, to try such contest; and shall issue a summons to said freeholders, directing them to appear and try said contest, on a day, and at a place, in said township, to be specified in said summons; which summons shall be directed to any constable of such county, and shall be served by him at least three days before the time appointed for the trial of such contest, and shall be by said constable returned at the time and place of trying the same.

Judge may also
issue subpoenas
for witnesses

Sec. 6. That the said judge is hereby authorized, on the request of the contestor, or the person or persons whose election is contested, to grant subpoenas for witnesses, directed to any constable of his county, who shall duly serve and return the same to said judge, at the time and place therein named.

Judge to qualify
freeholders

What evidence
admitted

Decision to be
signed and
sealed

If a vacancy be
made by the de-
cision, judge, to
send copy to
township trust-
ees; otherwise
to the clerk of
Ct. C. pleas

Sec. 7. That when the judge and said freeholders have met, the judge shall duly qualify the freeholders, to try such contest agreeably to evidence; and no evidence shall be admitted by the freeholders, but such as relates to the points stated in the notice: and when the trial is closed, the freeholders shall sign and seal their decision, which shall be attested by the judge; and if by such decision, there be a vacancy in the office of justice of the peace, the judge shall, within three days thereafter, transmit a copy of such decision to the trustees of the said township, who shall forthwith give notice to the electors, to fill such vacancy, as in other cases: but if by the decision the said election remains good, he shall transmit the same to the clerk of the court, who shall immediately thereafter proceed, as if no contest had taken place.

Election not set
aside for illegal

Sec. 8. That no election of a justice of the peace shall be set aside by the freeholders, merely because illegal votes were given at such election, if it appear that the person or persons

whose election shall be contested, has the greatest number of ^{votes if contested} the legal votes given at such election, after deducting all illegal ^{tee have greatest} votes given at such election, when there shall be no evidence ^{number of legal} for whom such illegal votes were given, as well as all illegal ^{votes} votes which shall appear to have been given for the person or persons whose election shall be contested.

Sec. 9. That in case any of the freeholders summoned fail ^{Freeholders failing to attend,} to attend at the time and place of trial, the judge shall appoint ^{judge to appoint others} other freeholders to supply the deficiency; and the witnesses ^{Provide} shall be duly qualified by said judge: *Provided*, If the judge fail to attend said trial, any disinterested justice of the peace of the county, may perform all the duties required of said judge by the provisions of this act.

Sec. 10. That if the contestor fail in setting aside the election, he shall pay the costs; and the judge or justice shall render judgment, from which there shall be no appeal, and issue ^{Costs of contest, by whom paid, and how collected} execution for the same, to any constable of such township; but if the election is set aside, the township in which such election was held, shall pay the costs, and the trustees thereof are required to issue their order on the township treasurer, for the payment of the same: The judge or justice shall receive one dollar, and each freeholder one dollar, per day; and the witnesses and constable their lawful fees, as in other cases.

Sec. 11. That whenever any person is elected to the office of justice of the peace, and receives a commission from the governor, he shall forthwith take the necessary oath or affirmation appertaining to such office, before the clerk of the court of common pleas of his proper county. (who is hereby authorized to administer the same,) or before any justice of the peace of the proper county; who shall within ten days certify the same to the clerk aforesaid, who shall in either case make record of it, in a book provided for that purpose: and every justice of the peace so qualified, before he shall be deemed legally authorized to discharge any of the duties of his office, shall, within ten day after the taking of said oath or affirmation, enter into bond, to be approved by the trustees of the township, payable to the State of Ohio, with at least two sufficient securities, with a penalty of not less than five hundred dollars, nor more than three thousand dollars, at the discretion of the trustees, to be deposited with the township treasurer, conditioned that the said justice shall well and truly pay over, according to law, all moneys which may come into his hands by virtue of his said commission; on which bond suit may be brought, and the penalty thereof recovered by any person injured by the neglect or refusal of any such justice, in the same manner as on bonds given by sheriffs: and on refusal or neglect to enter into such bond, the trustees shall give notice of a new election, to fill the office of such justice. ^{Justice to be sworn} ^{Certificate of qualification to be recorded by clerk of C. pleas} ^{Justice to give bond and security} ^{Penalty of the bond} ^{Condition thereof} ^{Suit thereon as on sheriff's bond} ^{Bond not given, new election}

Sec. 12. That every justice of the peace hereafter commissioned, shall, in thirty days thereafter, transmit the date thereof ^{Justice to transmit the date of}

Election of
Justices how
contested

Sec. 4. That if any candidate or elector of the township in which the election was held, shall think proper to contest the election of the person or persons proclaimed elected, such candidate or elector shall make it known to one of the judges of the court of common pleas of such county, within six days after the day of such election, and the points on which the contestor means to contest such election: and it shall be the duty of such judge to communicate the same to the person or persons whose election is contested, specifying the name of the contestor, with the points on which he relies, citing him or them to appear on a day not more than fifteen days from the day of such election, at some convenient place in said township, allowing such person or persons five days' notice of such contest; and said judge shall also direct the clerk of the court of common pleas to withhold the return of such contested election until the same is decided.

Judge to appoint
three freeholders
to try the contest
and issue a sum-
mons for them,
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a constable

Sec. 5. That the judge, on the same day that he issues a notice to the person or persons whose election is contested, shall appoint three respectable freeholders of his county, not resident in the township in which such election was held, to try such contest; and shall issue a summons to said freeholders, directing them to appear and try said contest, on a day, and at a place, in said township, to be specified in said summons; which summons shall be directed to any constable of such county, and shall be served by him at least three days before the time appointed for the trial of such contest, and shall be by said constable returned at the time and place of trying the same.

Judge may also
issue subpoenas
for witnesses

Sec. 6. That the said judge is hereby authorized, on the request of the contestor, or the person or persons whose election is contested, to grant subpoenas for witnesses, directed to any constable of his county, who shall duly serve and return the same to said judge, at the time and place therein named.

Judge to qualify
freeholders

What evidence
admitted

Decision to be
signed and
sealed

If a vacancy be
made by the de-
cision, Judge to
send copy to
township trus-
tees; otherwise
to the clerk of
C. C. pleas

Sec. 7. That when the judge and said freeholders have met, the judge shall duly qualify the freeholders, to try such contest agreeably to evidence; and no evidence shall be admitted by the freeholders, but such as relates to the points stated in the notice: and when the trial is closed, the freeholders shall sign and seal their decision, which shall be attested by the judge; and if by such decision, there be a vacancy in the office of justice of the peace, the judge shall, within three days thereafter, transmit a copy of such decision to the trustees of the said township, who shall forthwith give notice to the electors, to fill such vacancy, as in other cases: but if by the decision the said election remains good, he shall transmit the same to the clerk of the court, who shall immediately thereafter proceed, as if no contest had taken place.

Election not set
aside for illegal

Sec. 8. That no election of a justice of the peace shall be set aside by the freeholders, merely because illegal votes were given at such election, if it appear that the person or persons

whose election shall be contested, has the greatest number of ^{votes if contested} the legal votes given at such election, after deducting all illegal ^{votes have greatest number of legal votes} votes given at such election, when there shall be no evidence for whom such illegal votes were given, as well as all illegal votes which shall appear to have been given for the person or persons whose election shall be contested.

Sec. 9. That in case any of the freeholders summoned fail ^{Freeholders failing to attend,} to attend at the time and place of trial, the judge shall appoint ^{judge to appoint others} other freeholders to supply the deficiency; and the witnesses ^{Provide} shall be duly qualified by said judge: *Provided*, If the judge fail to attend said trial, any disinterested justice of the peace of the county, may perform all the duties required of said judge by the provisions of this act.

Sec. 10. That if the contestor fail in setting aside the election, he shall pay the costs; and the judge or justice shall render judgment, from which there shall be no appeal, and issue execution for the same, to any ^{Costs of contest, by whom paid, and how collected} constable of such township; but if the election is set aside, the township in which such election was held, shall pay the costs, and the trustees thereof are required to issue their order on the township treasurer, for the payment of the same: The judge or justice shall receive one dollar, and each freeholder one dollar, per day; and the witnesses and constable their lawful fees, as in other cases.

Sec. 11. That whenever any person is elected to the office of justice of the peace, and receives a commission from the governor, he shall forthwith take the necessary oath or affirmation appertaining to such office, before the clerk of the court of common pleas of his proper county. (who is hereby authorized to administer the same,) or before any justice of the peace of the proper county; who shall within ten days certify the same to the clerk aforesaid, who shall in either case make record of it, in a book provided for that purpose: and every justice of the peace so qualified, before he shall be deemed legally authorized to discharge any of the duties of his office, shall, within ^{Justice to be sworn} ten day after the taking of said oath or affirmation, enter into bond, to be approved by the trustees of the township, payable to the State of Ohio, with at least two sufficient securities, with a penalty of not less than five hundred dollars, nor more than ^{Certificate of qualification to be recorded by clerk of C. pleas} three thousand dollars, at the discretion of the trustees, to be deposited with the township treasurer, conditioned that the said justice shall well and truly pay over, according to law, all moneys which may come into his hands by virtue of his said commission; on which bond suit may be brought, and the penalty thereof recovered by any person injured by the neglect or refusal of any such justice, in the same manner as on bonds given by sheriffs: and on refusal or neglect to enter into such bond, ^{Justice to give bond and security} the trustees shall give notice of a new election, to fill the office of such justice. ^{Penalty of the bond Condition thereof}

Sec. 12. That every justice of the peace hereafter commissioned, shall, in thirty days thereafter, transmit the date thereof ^{Suit thereon as on sheriff's bond} ^{Bond not given, new election} ^{Justice to transmit the date of}

his commission
to township
clerk

Further duty of
clerk and trustee

Elections how
conducted

Compensation
for returning
poll book

Resignation to
be made to the
clerk of the C.
of C. pleas.

Notice thereof to
be given

Officer, &c. neg-
lecting duty un-
der this act may
be fined

When how col-
lected and ap-
plied

Acts repealed

to the clerk of the township, who shall make an entry thereof in a book, by him to be provided for that purpose: and at least sixty days previous to the expiration of such commission, the clerk shall give a written notice to the trustees, when such justice's commission will expire; and the trustees, on receiving such notice, shall notify the electors of such township to meet and elect a justice of the peace to fill such vacancy, in the manner pointed out in the second section of this act: and said trustees may hold an election before the said vacancy actually happens.

Sec. 13. That all elections under the provisions of this act, shall be conducted in the same manner as is required in the election of members of the General Assembly; and the judge taking in the return of such election, shall be entitled to receive ten cents per mile from the place of holding the election to the seat of justice, to be paid out of the county treasury.

Sec. 14. That all resignations of justices of the peace shall be made to the clerk of the court of common pleas of the proper county: and the justice so resigning shall, at the same time, give notice to the clerk of the township of his resignation; and the township clerk shall, within three days after such notice to him, certify the same to the trustees of the township, who shall proceed thereon as in other cases of vacancies.

Sec. 15. That if any officer or other person shall neglect or refuse to discharge or perform any of the duties enjoined or required by the provisions of this act; such officer, person or persons, so offending, shall be fined in a sum not less than five, nor more than twenty dollars, to be recovered before any justice of the peace of the proper township, in an action of debt, for the use of common schools in the township; which action may be commenced and prosecuted by the treasurer of the township, on the complaint of any citizen thereof.

Sec. 16. That the act providing for the election and resignation of justices of the peace, passed January 20th, 1820; and the act to amend the last mentioned act, passed January 30th, 1827; and all other laws contrary to the provisions of this act; be, and the same are hereby repealed.

This act to take effect and be in force, from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

January 31, 1831.

AN ACT defining the powers and duties of Justices of the Peace and Constables, in civil cases.

Jurisdiction of
justices in civil
cases

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That the jurisdiction of justices of the peace, in civil cases, shall, unless otherwise directed by law, be limited to the

townships wherein they may have been elected, and where they shall reside:

Second—They shall have cognizance, under the restrictions and limitations hereinafter provided, of any sum not exceeding one hundred dollars:

Third—But if, however, any debtor shall appear before a justice of the peace, without process, and confess that he is indebted to another; it shall be lawful for such justice, on the application of the creditor, to render judgment on such confession, against the debtor, for any sum not exceeding two hundred dollars:

In rendering judgment on confession

Fourth—Justices of the peace shall have power, and they are hereby authorized, to administer any oath required or directed by law to be taken or administered:

To administer oaths

Fifth—They may grant and issue subpoenas for witnesses to either party, in the cause or matter pending before such justices; and such party shall be authorized to serve and return the same: but he shall not be allowed fees for traveling or serving the same, when done by himself:

Issue subpoenas party may serve subpoenas

Sixth—And the powers of justices of the peace to administer oaths, and to take the acknowledgment of deeds, mortgages and other instruments of writing, and to grant subpoenas, shall be co-extensive with the county in which they may have been elected.

Jurisdiction co-extensive with county for certain purposes

Sec. 2. Constables shall be ministerial officers of the courts held by justices of the peace in civil cases within their respective townships:

Powers and duties of constables in civil cases

First—They shall have power and authority to execute process of subpoena in civil cases throughout their respective counties:

Second—And they shall moreover execute all such other legal process in civil cases as may be directed to them by any justice of the peace; and shall do and perform such other services as may be required by law.

Sec. 3. Every justice of the peace shall keep a docket in which he shall make a fair and accurate entry of all actions and suits, instituted before him, with his proceedings thereon; and if either of the parties require a copy of such proceedings, the justice shall furnish the same.

Justice to keep a docket and furnish transcripts

Sec. 4. In all cases when the office of a justice of the peace, in any township, shall become vacant in any manner, except by death, the docket of every such justice of the peace, or a transcript of all unfinished business in the same, shall be duly certified by such justice, (or in case of death,) by his executors or administrators, and delivered to the successor of such justice of the peace, or some other justice in said township, on demand, together with all laws, the property of the State, that such justice of the peace may have in his possession at the time of the vacancy.

When office becomes vacant, docket or transcript to be delivered to successor

Sec. 5. That all transcripts certified by any justice of the

Certified transcript to be evidence

peace, of proceedings had before him during his continuance in office, shall be evidence in courts of justice, whether certified during his continuance in office, or after the expiration of the same.

Justice receiving docket or transcript, to issue scire facias thereon

Sec. 6. And every justice of the peace receiving such docket or transcript, shall, on demand of the plaintiff or plaintiffs, defendant or defendants, his, her or their agent or agents, proceed to issue a scire facias on any judgment entered on such docket or transcript; and on such scire facias being returned "served," and no good cause being shown by the defendant or defendants, in such scire facias, or where the scire facias may be returned, "not found," the justice shall enter judgment against the defendant or defendants named therein, and proceed to issue execution thereon as in other cases.

How to proceed when justice who rendered judgment has removed from county

Sec. 7. And in all cases where any person entitled to have execution on any judgment rendered by a justice of the peace who has removed from the county in which such justice was elected, it shall be lawful for such person to make oath or affirmation thereof, before some other justice of the peace of the township where such judgment was rendered; and the justice before whom such oath or affirmation was made, shall, thereupon, be authorized to demand, receive and retain, the docket of such absent justice, and may issue writs of scire facias, on any judgment entered therein, and proceed to execution in the same manner he would be authorized to do, had such docket or a transcript thereof been duly certified by such justice.

Justice retaining the docket of another, shall account for fees

Sec. 8. And the justice of the peace retaining the docket of another justice, shall be accountable to such justice, or his representatives, for all fees due such justice of the peace, on said docket, when collected, as for other moneys by him collected in his official capacity.

Justice having such docket may issue transcripts therefrom

Sec. 9. And in all cases where it may be necessary to procure a transcript from the docket of such absent justice, it shall be lawful for the justice having possession of such docket as aforesaid, to make out and certify the same in the manner he would be authorized to give a transcript from his own docket.

Justice re-elected may proceed as if his term had not expired

Sec. 10. In all cases where the same justice shall be re-elected and qualified to fill the vacancy occasioned by the expiration of his own term of office, every such justice so re-elected and qualified, may proceed to render judgment, award execution, and to discharge the other duties of his office, in the same manner as if his former term of office had not expired.

Summons the first process, except, etc.

Sec. 11. Where any action or suit may be brought under the provisions of this act, a summons shall be the first process except in the following cases, namely:

Capias, when allowed

First—A capias may be allowed and issued where the defendant is not a resident householder of the county in which the action shall be brought:

Second—Where it shall be proven on oath or affirmation, to the satisfaction of the justice, that the plaintiff will be in danger

of losing his or her debt, or demand, unless the defendant shall be arrested:

Third—Where the plaintiff is a non-resident of the county, and his or her debt or demand arises on any bond, single bill, promissory note, or bill of exchange, it shall be lawful for the justice to determine the kind of process most proper to secure the debt or demand of such plaintiff:

Fourth—Where a certified transcript of any judgment and proceedings of a justice, shall be delivered to any other justice of the peace for the purpose of having the same carried into execution, it shall be lawful to issue a capias thereon, as hereinafter provided.

Sec. 12. And no person who is a householder or freeholder, resident of the county in which any action may be commenced against him by capias, or summons, under this act, shall be held to answer the same in any township of such county other than the one where he shall reside, except in the cases following, namely:

Suit must be in township where defendant resides, except, etc.

First—Where there shall be no justice of the peace for the township in which the defendant may reside:

Second—Or where the only justice residing therein is interested in the subject matter in controversy:

Cases enumerated in which suit may be brought in an adjoining township

Third—Or where he shall stand in the relation of father, father-in-law, son, son-in-law, brother, brother-in-law, guardian, ward, uncle, nephew, or cousin, to either of the parties; it shall be lawful in any of the foregoing excepted cases, for the plaintiff to bring his action before any justice of the peace of an adjoining township in the same county: and process shall be issued and served, and such defendant be bound to answer thereto, and all such further proceedings may be had therein, as if the defendant resided in the township where the action was brought.

Fourth—If two or more persons shall be jointly, or jointly and severally, bound in any contract, or liable for any injury, and shall reside in different townships of the same county, it shall be lawful for the plaintiff to commence his or her action before a justice of the peace of that township in which any one of the debtors, or other person liable, may reside: and the justice before whom such action may be brought, shall issue process against such debtors, directed to any constable of his township, which process such constable shall be authorized to serve and return; and the defendants shall be compelled to answer thereto, and all such other proceedings shall be had therein, as if all the defendants resided in the township where such action was commenced.

Fifth—In cases of trespass on personal property, it shall be lawful to bring the action in the township where the trespass was committed: but if the trespasser shall reside in another township of the same county, the justice before whom such action may be brought, shall have power to issue a summons of

Trespass on real property may be brought in the township where trespass was committed; and

constable of that township may serve process

capias, as the nature of the case may require, directed to any constable of the township in which said action may be brought, who is authorized and hereby required to serve such process on the defendant or defendants, in the township where he or they may reside, or can be found, and return the same to the justice before whom such action was commenced; and the defendant or defendants shall be held liable to answer such process, in the same manner as if he or they resided in the township in which such action was instituted.

Sum demanded, etc., to be indorsed on writ

Sec. 13. It shall be the duty of every justice of the peace, who issues a summons or capias, to indorse thereon the precise sum demanded, together with the costs that have then accrued.

Summons to specify time and place of appearance

When served

Sec. 14. And if such process be a summons, it shall specify a certain time, not exceeding twelve days from the date thereof, and also a certain place, at which the defendant is to appear and answer to the same; and it shall be served at least three days before the time of appearance therein specified.

Manner of service

Sec. 15. Such summons shall be personally served by reading the same, or by delivering a copy thereof to the defendant, when demanded; but if such defendant shall be absent, then such service shall be made by copy, left at his or her dwelling house or place of abode.

Constable to indorse service

Sec. 16. The constable shall indorse on such summons, the time and manner of service, and subscribe his name thereto.

When service is not personal, justice may continue cause.

Sec. 17. And in all cases where service of a summons shall be by copy, left at the dwelling house or place of abode of the defendant, during his or her absence, it shall be lawful for the justice of the peace to continue the cause from time to time, until the defendant shall have returned, and received notice of the pendency of such action: but such continuance shall rest in the sound discretion of the justice, taking into view all the circumstances of the case.

Capias returnable forthwith

Sec. 18. Writs of capias issued under the provisions of this act, shall be made returnable forthwith after the service thereof; and the constable serving the same shall, according to the command thereof, convey the defendant before the justice who issued the writ.

Proceedings on the return of a capias

Sec. 19. And the justice shall thereupon proceed to the trial of the cause, or on application continue the same; and in case of a continuance being granted, it shall be the duty of the justice to require the defendant to give bail for his appearance before such justice, on the day appointed for the trial of the cause, and for his not departing the court without leave.

Defendant failing to give bail, may be committed till trial

Sec. 20. That if such defendant shall fail or neglect to give such bail, the justice shall commit him to the jail of the county, there to remain until the time appointed for the trial, which shall not exceed three days from the return of such capias; or the justice may order the constable to hold such defendant in custody, until the plaintiff shall have notice and time to attend and proceed to trial.

Sec. 21. The recognizance of bail taken as aforesaid, when signed and acknowledged, shall remain with the justice for the benefit of the plaintiff; and if the defendant does not appear according to the condition of such recognizance, at the time and place appointed for the trial of the cause, and no sufficient reason be assigned for his non-appearance, then the justice may proceed to hear and determine such cause in his absence.

Recognizance to remain with justice, and defendant not appearing, cause may be tried in his absence

Sec. 22. And in all other suits or actions instituted under the provisions of this act, when the parties thereto shall appear in person or by agent at the time and place appointed for the trial thereof, it shall be the duty of the justice of the peace to hear and examine the proofs and allegations of the parties, and thereupon to give judgment, with costs of suit, according to the law and justice of the matter, as it shall appear in evidence; unless, on the application of either party, on good cause shown, he shall continue the cause.

Parties appearing, trial to proceed, and judgment rendered according to law, justice and evidence

Sec. 23. No cause shall be continued as aforesaid for a longer term than twenty days, unless both parties shall consent thereto: *Provided*, That if either party, or a material witness, shall reside or be absent in another State or county, it shall be lawful for the justice, on good cause shown, by affidavit, and on payment of the costs of such continuance, by the party moving the same, to adjourn the trial for any term not exceeding ninety days.

For what time and what cause continuances may be granted

Sec. 24. In all cases before a justice of the peace, the plaintiff, his agent or attorney, shall file with such justice a bill of the particulars of his demand; and the defendant, if required by the plaintiff, his agent or attorney, shall file a like bill of the particulars, he may claim as a set off, and the evidence on the trial shall be confined to the items set forth in said bills.

Parties to file bills of particulars with justice, etc.

Sec. 25. In all actions instituted under the provisions of this act, when the plaintiff fails to appear by himself or agent, the justice may try or continue the cause, or render judgment against him for the costs of suit, at the discretion of such justice: *Provided*, That the plaintiff shall not, by such judgment of non-suit, be barred from commencing another action for the same cause.

When plaintiff fails to appear, justice may try or continue cause, or non-suit plaintiff

Sec. 26. If in any case instituted as aforesaid, it shall appear at the trial that there is a balance due to the defendant, from the plaintiff, then the justice shall render judgment against the plaintiff, in favor of the defendant, for the sum appearing to be due, with costs of suit: and such defendant shall be entitled to execution therefor.

Defendant may have judgment for balance due

Sec. 27. If the defendant does not appear by himself or agent, at the time and place appointed for trial, and no just cause be shown for his or her non-attendance, the justice may hear and determine the cause and render judgment.

If defendant does not appear, justice may hear cause

Sec. 28. When judgment shall have been rendered against the defendant in his absence, if he shall appear within ten days thereafter, pay the costs, and request the judgment to be open-

Judgment against defendant in his absence, may be

opened, and new trial granted ed, the justice shall set aside such judgment and grant a new trial, and thereupon appoint a day for such trial, of which the defendant shall notify the plaintiff at least six days prior to the day appointed.

Sec. 29. Whenever the parties shall agree to wave process and enter any suit or action of which a justice of the peace may have jurisdiction, it shall be the duty of any justice of the peace before whom such parties shall appear, to docket the action, and state that process is waved; and thereupon such justice shall proceed to trial, judgment, and execution, in the same manner as if process of appearance had been regularly issued, served and returned.

Sec. 30. In all cases where judgment is rendered by a justice of the peace within this State, upon any bond, sealed bill, promissory note, or other instrument of writing, in which two or more persons are jointly, or jointly and severally, held and bound, and it shall be made to appear to the justice, by parole or other testimony, that one or more of said persons, so bound, signed the same as surety or bail for his or their co-defendant; it shall be the duty of the justice, in entering judgment thereon, to certify which of the defendants is principal debtor, and which is surety or bail.

Sec. 31. And the said justice, in issuing execution on any such judgment, shall issue execution commanding the officer to cause the money specified in the execution, to be made of the goods and chattels of the principal debtor; and for want of such goods and chattels, of such principal debtor, whereof to make the same, then, that he cause the same to be made of the goods and chattels of the surety or bail: and in all such cases, the personal property of the principal debtor, liable to be seized in execution, and within the jurisdiction of said justice, shall be exhausted before any of the property of the security or bail shall be taken in execution.

Sec. 32. At any time before trial and judgment rendered, the plaintiff and defendant consenting thereto, may have the cause submitted to the arbitrament of three disinterested men, who shall be chosen by the parties; and if the arbitrators be present, they shall hear and determine the cause on oath or affirmation, to be administered by the justice: but if the persons chosen as arbitrators be not present, the justice shall issue a citation for them to attend at the time and place appointed for the trial, which citation shall be served by any constable, or the parties, as they may agree.

Sec. 33. When the arbitrators shall convene and be qualified, they shall proceed to hear and determine the cause; and make out their award in writing, which shall be valid when signed by any two of them, and return the same to the justice; who shall thereupon enter such award on his docket, and thereon render judgment and issue execution, as in other cases.

Sec. 34. And every judgment rendered on such award, shall conclude the rights of the parties thereto; unless it shall be made to appear to the justice of the peace who rendered such judgment, and within ten days from the rendition of the same, or to the court of common pleas, on appeal, that such award was obtained by fraud, corruption, or other undue means. Such award to be final unless obtained by fraud, &c.

Sec. 35. Whenever satisfactory proof shall be adduced before such justice, within the period aforesaid, that such award was obtained by fraud, corruption, or other undue means, it shall be competent for such justice to set aside such award and his judgment thereon rendered, and thereupon proceed to such final trial and judgment, as if such award had never been made. On proof of fraud, justice may set aside award

Sec. 36. But no appeal shall be allowed to the court of common pleas, from any judgment of a justice of the peace rendered on an award, unless the party praying such appeal shall file with such justice an affidavit, therein stating that he or she does verily believe that such award was obtained by fraud, corruption, or other undue means. No appeal from judgment on award, without affidavit of fraud

Sec. 37. And if on appeal from the judgment of a justice rendered on any such award, the court of common pleas shall be satisfied that the award was obtained by fraud, corruption, or other undue means, such court shall set aside the award, and proceed to hear and determine the cause on the merits, as in other cases of appeal. On appeal, court may set aside award

Sec. 38. But if the said court shall be of opinion that the award was not obtained by fraud, corruption, or other undue means, they shall render judgment thereon, and for the costs of suit; and award execution as in other cases. Otherwise, shall render judgment on award

Sec. 39. The arbitrators aforesaid shall be entitled to receive for their services, sixty-two and a half cents each, per day; to be taxed and collected with the other costs of suit. Fees of arbitrators

Sec. 40. Appeals shall be allowed to the court of common pleas, from the final judgment of any justice of the peace, rendered under the provisions of this act, except from judgments rendered on confession. Appeals, when allowed

Sec. 41. When an appeal shall be taken under the provisions of this act, the party appealing shall, within ten days from the rendition of the judgment appealed from, enter into recognizance to the adverse party, with at least one good and sufficient surety, who shall sign his name to such recognizance, in a sum not less than fifty dollars, in any case, nor less than double the amount of the judgment and costs; conditioned for the payment of the debt or damages, and costs, that have accrued, or may be adjudged against the appellant, in the court of common pleas. Recognizance for appeal, when and how taken

Sec. 42. And the said justice shall make out a certified transcript of his proceedings, including the recognizance of bail taken on such appeal, and shall, on demand, deliver the same before record. Transcript, &c., to be delivered to clerk on or before record

day of next
term

to the appellant, or his agent, who shall deliver the same to the clerk of the court to which such appeal may be taken, on or before the second day of the term thereof, next following such appeal; and such justice shall also deliver or transmit the bill or bills of particulars, the depositions, and all other original papers, if any, used on the trial before him, to such clerk, on or before the said second day of such term: and all further proceedings before the justice of the peace, in that case, shall cease and be staid, from the time of entering into such recognizance.

Clerk to file pa-
pers and docket
appeal

Sec. 43. The clerk, on receiving such transcript and other papers as aforesaid, shall file the same, and docket the appeal.

Plaintiff below
shall be plaintiff
in com. pleas

Sec. 44. And the plaintiff in the court below shall be plaintiff in the court of common pleas; and the parties shall proceed, in all respects, in the same manner as though the suit or action had been originally instituted in the said court.

Appellant failing
to file transcript
in time, appellee
may file one, and
have judgment
entered or ap-
peal dismissed

Sec. 45. But if the appellant shall fail to deliver the transcript and other papers, if any, to the clerk, and have his appeal docketed as aforesaid, on or before the second day of the term of the said court next after such appeal, the appellee may, at the same term of said court, file a transcript of the proceedings and judgment of such justice, and the said cause shall, on motion of the appellee, be docketed: and the court is authorized and required, on his application, either to enter up a judgment in his favor, similar to that entered by the justice of the peace, and for all the costs that have accrued in the court, and award execution thereon; or such court may, with the consent of such appellee, dismiss the appeal, at the cost of the appellant, and remand the cause to the justice of the peace; to be thereafter proceeded in as if no appeal had been taken.

If plaintiff
appeal and
become non-suit,
what judgment
court shall
render

Sec. 46. If the plaintiff in the action before the justice, shall appeal from any judgment rendered against such plaintiff, and after having filed his transcript and caused such appeal to be docketed, according to the provisions of this act, shall fail to declare in such action, or otherwise neglect to prosecute the same to final judgment, so that such plaintiff shall become non-suit, it shall be the duty of the court to render judgment against such appellant, for the amount of the judgment rendered against him by the justice of the peace, together with interest accrued thereon, and for costs of suit, and to award execution therefor, as in other cases.

Both parties
failing to enter
appeal, how
justice shall
proceed

Sec. 47. If both parties fail to enter such appeal within the time limited as aforesaid, the justice, on receiving a certificate from the clerk of the court, stating that the appeal was not entered, or being entered, was dismissed as aforesaid, shall thereupon issue execution upon the judgment, in the same manner as if such appeal had never been taken.

Appellant not
recovering
greater sum shall
pay costs

Sec. 48. And if any person appealing from a judgment rendered in his favor, shall not recover a greater sum than the amount for which judgment was rendered, besides costs

and the interest accruing thereon, every such appellant shall pay the costs of such appeal.

Sec. 49. When any appeal shall be dismissed, or when judgment shall be entered in the court of common pleas against the appellant, the surety in the recognizance of appeal, shall be liable to the appellee for the whole amount of the debt, costs and damages, recovered against the appellant. Liability of surety for appeal

Sec. 50. And when the whole amount of the debt, damages and costs, shall not exceed one hundred dollars, the surety may be proceeded against before the proper justice of the peace, by scire facias, as in case of bail for stay of execution upon judgments rendered before a justice of the peace: and where the whole amount of the debt, or damages and costs, shall exceed one hundred dollars, the surety may be proceeded against in the court of common pleas of the proper county, by action of debt, founded upon said recognizance; an authenticated copy of which, shall be received in court as of equal authority with the original. How surety for appeal may be proceeded against

Sec. 51. When an appeal taken to the court of common pleas shall there be quashed, by reason of irregularity in taking or consummating the same, the cause for quashing shall be stated in the order of the court, and a transcript of such order shall be lodged with such justice; who shall thereupon proceed to issue execution, in the same manner as if no appeal had been taken. Quashing appeal

Sec. 52. In proceedings on appeal, when the surety in the recognizance shall be insufficient, or his testimony shall be required by the appellant, or such recognizance may be insufficient in form or amount, it shall be lawful for the court, on motion, to order a change or renewal of such recognizance, and direct that the same be certified to the justice from whose judgment the appeal was taken, or that it be recorded in the said court. In what cases recognizance may be changed or renewed

Sec. 53. When the balance claimed to be due on any open or unsettled account, or on any bill, note or bond, shall be less than one hundred dollars, the party by whom such balance shall be claimed, may commence his action therefor, before a justice of the peace; who shall have power, and he is hereby authorized, to hear and determine the matters in controversy between the parties, without regard to the amount of the original account or contract, and he may render judgment for any balance found due, not exceeding one hundred dollars. When balance claimed is less than \$100, justice shall have jurisdiction

Sec. 54. If any plaintiff appeal from a judgment entered in his favor for such balance, and shall recover judgment for a greater sum than one hundred dollars, besides interest and costs, he shall not recover costs on such appeal. If plaintiff appeal and recover more than \$100 he shall not have costs

Sec. 55. In all cases where the proceedings of a justice of the peace are carried to the court of common pleas or supreme court, by writ of certiorari, the clerk of the court shall require and take from the person applying for such writ, prior to his Certiorari not to issue till bond given

issuing the same, a bond to the adverse party, with sufficient surety resident within the county, conditioned for the payment of all the costs and charges which have accrued, or may accrue on such writ, together with the amount of any judgment that may be rendered against such plaintiff in certiorari, on the further trial of the cause, after the judgment of the court below shall have been set aside or reversed.

Condition of bond
Certiorari not allowed after fifteen days
 Sec. 56. Writs of certiorari, to set aside or reverse the proceedings of justices of the peace, in manner aforesaid, shall not be allowed or issued in vacation of the courts aforesaid, after the expiration of fifteen days from the day on which the judgment, sought to be reversed, was rendered: and if any such writ be allowed or issued, contrary to the provisions of this section, it shall be the duty of the justice to whom it may be directed, to disregard the same.

But may be allowed in term time within five years
 Sec. 57. But writs of certiorari may be allowed in term time by the court of common pleas or supreme court, on cause shown, at any time before satisfaction of the judgment sought to be reversed thereby: *Provided*, Such time shall not exceed five years from the rendition of such judgment.

Certiorari to operate as supersedeas
 Sec. 58. And the writ of certiorari, allowed under the provisions of this act, shall, in all cases, operate as a supersedeas to any execution issued on the judgment sought to be reversed by such writ, from the execution of the certiorari bond taken as aforesaid.

Notice to adverse party how given
 Sec. 59. It shall be the duty of the plaintiff in certiorari, to give a written notice to the adverse party, his agent or attorney, if resident in the county, that such writ has been allowed, and issued; which notice shall be personally served by reading, or by copy left at the dwelling house or place of abode of such party: but if such party, his agent or attorney, be not a resident of the county, then such notice shall be given by advertisement posted up in three of the most public places within such county.

Time of giving notice
 Sec. 60. And the notice required as aforesaid, shall be given at least ten days before the term of the court to which such writ of certiorari is returnable; but if that number of days shall not intervene between the date and return of such writ, then the court shall make such order respecting the notice to be given, as shall be just and right in the premises.

Proceedings when judgment of justice is affirmed
 Sec. 61. If the judgment of a justice of the peace, taken by writ of certiorari to the court of common pleas, shall be affirmed, it shall be the duty of such court to render judgment against the plaintiff in certiorari, for the costs of suit, and to award execution therefor; and the court shall thereupon order their clerk to certify their decision in the premises, to the justice, that such proceedings may thereafter be had on the judgment affirmed as aforesaid, as if such writ of certiorari had never been taken: or such court may award execution, to carry into

effect the judgment of such justice; in the same manner as if such judgment had been rendered in the court of common pleas.

Sec. 62. But in all cases where the proceedings of a justice of the peace are carried, by writ of certiorari, to the court of common pleas, in manner aforesaid, and the judgment of such justice shall be reversed or set aside, the court shall render judgment of reversal, and for the costs that have accrued up to that time, in favor of the plaintiff in certiorari, and award execution therefor; and the cause shall be retained by the court for trial and final judgment, as in cases of appeal. Proceedings in court when judgment is reversed

Sec. 63. Any person against whom judgment may be rendered under the provisions of this act, except as hereinafter excepted, may have stay of execution thereon for the several periods hereinafter mentioned, by entering into recognizance to the adverse party, with such good and sufficient surety, resident in the county, as the justice shall approve, conditioned for the payment of the amount of such judgment, interest and costs, and the costs that may accrue; which recognizance shall be entered on the docket of the justice, and be signed by the surety. Stay of execution

Sec. 64. The stay of execution hereby authorized, shall be graduated as follows, namely: Graduation of stay

First—On any judgment for five dollars and under, the stay shall be for sixty days:

Second—On any judgment exceeding five dollars, and under twenty dollars, the stay shall be for ninety days:

Third—On any judgment for twenty dollars, and under fifty dollars, the stay shall be for one hundred and fifty days:

Fourth—On any judgment for fifty dollars or upwards, the stay shall be for two hundred and forty days.

Sec. 65. But no stay of execution on judgments rendered in the following cases shall be allowed, namely: Cases in which no stay of execution shall be allowed

First—On judgments rendered against any justice of the peace, for refusing to pay over money by him collected or received in his official capacity:

Second—On judgments rendered against constables for refusing to pay over money by them collected or received in their official capacity, or for neglecting any other duty required of them by this act:

Third—On judgments rendered against bail for the stay of execution.

Sec. 66. If any person against whom judgment was rendered, shall refuse or neglect to enter into such recognizance as aforesaid, and shall fail to satisfy such judgment, and interest thereon, together with costs of suit; it shall be the duty of the justice rendering such judgment, unless otherwise directed by the party in whose favor the judgment was rendered, or his agent, to issue execution thereon, returnable to such justice within thirty days from the date of such execution, thereby com- Party failing to give bail for stay, execution shall issue

Command of
execution

manding the constable to levy the debt, or damages, and costs, of the goods and chattels of the party against whom judgment was rendered; and for want of goods and chattels whereon to levy, the party may, at his option, direct execution to issue, commanding the constable to take the body of the party against whom the same issued, and him convey to the jail of the county.

Jailer to receive
person taken in
execution

Sec. 67. And the sheriff, or other keeper of the jail, is hereby required to receive into his custody, and safely keep in such jail, the person or persons so taken in execution, until the judgment, with interest and costs, be satisfied, or such person or persons be otherwise discharged by due course of law.

If bail be given
in time, execu-
tion shall be re-
called

Sec. 68. But if execution shall have been issued before the recognizance for stay of execution, or that required in the case of appeals, shall be given, and such recognizance should afterwards, and within the time allowed for entering the same, be given, then, and in such case, the justice shall recall the execution.

Execution first
against the goods
of principal; for
want thereof,
scire facias
against bail

Sec. 69. And when bail has been given for the stay of execution as aforesaid, and the period of stay has expired, execution shall, in the first instance, be awarded against the goods and chattels of the party against whom judgment was rendered; and if goods and chattels of the party cannot be found sufficient to satisfy the execution, and that fact be returned by the constable, the justice shall, unless otherwise directed by the party for whom execution issued, or his agent, proceed by writ of scire facias against the bail.

Scire facias what
to specify, and
how served

Sec. 70. And all writs of scire facias issued under the provisions of this act, shall specify a certain time, not exceeding twelve days from the date thereof, and a certain place at which the defendant shall appear, and answer to the same: and such writs shall be served and returned, unless otherwise directed by this act, in the same manner that a summons is required to be served and returned.

On return of
scire facias
served, judgment
shall be rendered
against bail, and
execution issued

Sec. 71. And on return of the scire facias against the bail for stay of execution, served by the constable, the justice shall, unless for good cause shown to the contrary, enter judgment against such bail for the amount of the original judgment, interest and costs, and the costs that may have accrued, or such part thereof as may remain unpaid, and for the costs in the proceedings by scire facias: and shall, unless otherwise directed by the plaintiff or his agent, forthwith issue execution thereon, against the goods and chattels of such bail; to be executed and returned in the same manner that executions are required to be in other cases.

For want of
goods of bail,
execution on ori-
ginal judgment
for goods and
body

Sec. 72. And if it shall appear, from the return of the said execution, that the same remains unsatisfied, in whole or in part, for want of goods and chattels of the bail whereon to levy, then the plaintiff or his agent, may demand and have execution

on the original judgment, against the goods, chattels and body of the defendant therein named.

Sec. 73. And where any person who has become bail for stay of execution, shall remove before the expiration of such stay, into any other county or State, the justice shall, on demand, issue execution against the goods, chattels, and body of the defendant, or other party against whom the original judgment was rendered, to be proceeded with as in other cases.

When bail removes before stay expires, execution may issue on original judgment

Sec. 74. When it shall become the duty of the constable to take the body of any person to the jail of the county, he shall deliver to the sheriff or jailer a certified copy of the execution, commitment or other process, whereby he holds such person in custody, and return the original to the justice who issued the same; which copy shall be a sufficient authority to the sheriff or jailer to keep the prisoner in jail, until discharged by due course of law.

Constable to deliver copy of process to jailer with the body, and return original to justice

Sec. 75. When any bail for the stay of execution, shall become apprehensive that, by delaying execution until the expiration of the full time of such stay, he or she may be compelled to pay the judgment, it shall be lawful for such bail to make and file affidavit of that fact, before the justice on whose docket the judgment is entered; whereupon, such justice shall issue execution against the judgment debtor, which shall be proceeded in as in other cases: *Provided*, Such bail shall not thereby be discharged from liability, but may be proceeded against after the expiration of the term of stay, in the same manner as if execution had not issued as aforesaid.

When bail for stay becomes apprehensive, how to proceed

Sec. 76. But if the judgment debtor shall, within ten days after levying such execution, enter into a farther recognizance for the stay of execution, during so much of the first stay as remains then unexpired, and shall pay the costs of the execution issued against him as aforesaid, it shall be the duty of the justice to take such further recognizance, and recall the execution; and the person who last became surety, shall first be proceeded against, until it shall appear, by the return of the constable, that he or she has no goods and chattels whereon to levy, before proceedings shall be instituted on the recognizance of bail first given.

If new bail be given in ten days, execution to be recalled

Sec. 77. When any judgment shall be obtained against any person who shall have entered himself bail on the docket of any justice of the peace, agreeably to the provisions of this act, the original judgment shall remain good and valid in law, for the use of such bail; who, at any time thereafter, may sue out execution, on such judgment, against the goods, chattels and body of the defendant, for the use of such bail, which shall be so indorsed by the justice: and such bail shall also be entitled to a transcript of such judgment, for his own use; which shall have the same force and effect as transcripts in other cases.

When judgment is obtained against bail, he may have execution on original judgment for his use

Sec. 78. All property taken in execution under the provisions of this act, shall be advertised for sale, at four of the most

Sales on execution. how advertised.

fixed, and how public places within the township where such property was seized, at least ten days previous to the time appointed for such sale; which sale shall be held between the hours of ten o'clock, A. M. and four o'clock, P. M., at the house, or on the premises, where such property was taken, or at one of the most public places within the township.

Justice and constable shall not purchase. Sec. 79. It shall not be lawful for any justice of the peace who issued the execution, nor for the constable holding the execution, to purchase, either directly or indirectly, any property sold on such execution: and any justice or constable who shall offend against the provisions of this section, shall forfeit and pay, for every such offence, any sum not exceeding one hundred dollars, nor less than five dollars; to be recovered by action of debt, in the name of the State of Ohio, before any court having jurisdiction thereof, for the use of the township where such offence was committed, and shall, moreover, be liable to the action of the party injured thereby.

Justice to allow constable compensation for keeping live stock. Sec. 80. When any cattle or other live stock shall be taken in execution, it shall be the duty of the justice who issued the execution, or other justice charged with the duty of collecting the judgment whereon such execution issued, to allow the constable, for keeping the same, a reasonable compensation; to be taxed and collected as other costs in the suit.

Constable to annex to his return an inventory of goods, levied on or sold. Sec. 81. When a constable shall levy on and sell any goods and chattels, he shall make out and annex to his return to the execution in virtue of which such sale was made, a true inventory of all such property, and of each article thereof, and the price at which the same was sold; and for each and every neglect to return a true and accurate schedule or inventory of property sold, or remaining unsold for want of bidders, or other just cause, and if sold, the price at which the same was sold—each and every constable guilty of such neglect, shall forfeit and pay, on conviction thereof, any sum not exceeding one hundred dollars; to be recovered by action of debt in the name of the State of Ohio, for the use of the party injured thereby, to be prosecuted before any court having cognizance thereof.

Constable to return a schedule of goods unsold, and vendi to issue. Sec. 82. Where a constable shall have levied on any goods and chattels which remain unsold for want of bidders, or other just cause, it shall be his duty to return with the execution a schedule of all such goods and chattels; and the justice shall, unless otherwise directed by the party for whom such execution issued, or his agent, immediately thereafter, issue a venditioni exponas, thereby commanding any constable to whom the same may be directed or delivered, to expose such property to sale; which sale, and the proceedings thereon, shall be the same as if such property had been sold on the original execution.

Constable may take security for. Sec. 83. Any constable having levied on goods and chattels, of which he permits the party against whom the execution

issued to retain the possession, is hereby authorized to take such security for his own indemnity as he may require, that such property shall be delivered at the time and place appointed for on the sale thereof.

the delivery of property levied

Sec. 84. In all cases where any lands may have been let, reserving rent in kind, and when the crops or emblements growing or grown thereon, shall be levied on or attached, by virtue of any execution, attachment or other process, against the landlord or tenant, the interest of such landlord or tenant against whom such process was not issued, shall not be affected thereby; but the same may be sold, subject to the claim or interest of the landlord or tenant against whom such process did not issue.

Emblements may be sold, subject to the claim of landlord or tenant

Sec. 85. In all cases of judgments by confession for a greater sum than one hundred dollars, where a recognizance of bail for the stay of execution shall have been entered, the justice shall have power and jurisdiction to proceed against the surety in such recognizance to final judgment and execution; and may also issue execution on the original judgment, in the same manner he might or could do, if such judgment had been rendered for one hundred dollars or under.

Justice may proceed against bail on judgments confessed for more than \$100, and issue execution

Sec. 86. And constables shall have the same power to levy and collect all executions issued on such judgments by confession, rendered for a greater sum than one hundred dollars; and shall be liable to the same penalty, for any neglect of duty in the service and return thereof, as in other cases.

Constable may levy and collect such execution

Sec. 87. Where execution in any civil or criminal case shall be returned unsatisfied, in whole or in part, for want of goods and chattels found whereon to levy, and it shall be suggested to the justice of the peace who may be charged with the duty of collecting the judgment whereon such execution issued, that the party against whom such judgment was rendered is possessed of lands or tenements—the justice shall make an entry of such suggestion on his docket; and, on the application of the party in whose favor such judgment was obtained, or his agent, deliver to such party or his agent a certified transcript of such judgment and suggestion, including the proceedings had, and the costs that have accrued thereon.

When judgment debtor has no goods, but has lands, suggestion to be entered on docket, and transcript made out

Sec. 88. And the party, or his agent, receiving such transcript, may deliver the same to the clerk of the court of common pleas of any county where the party, against whom such judgment was recovered, may reside; and it shall be the duty of such clerk to file the same in his office, and issue a writ of scire facias thereon, which shall be served and returned in the same manner, that a summons issued from such court is or may be required by law to be served and returned in other cases.

Transcript to be delivered to clerk of court who shall issue scire facias thereon

Sec. 89. And such writ of scire facias shall require the party against whom the same issued, to show cause at the return term thereof, why execution should not be awarded against the lands and tenements of such party: and in case no

Proceedings on such scire facias

cause be shown, the court shall render judgment against such party, for the costs that have accrued in the proceedings by scire facias, and award execution against the lands and tenements of such party, for the debt, fine, or damages, including the interest and costs, stated in such transcript, or for so much thereof as may remain due and unsatisfied, and for costs of suit; on which execution the same proceedings shall be had, as if the like execution had been issued on any other judgment obtained in such court.

When judgment debtor or bail for stay of execution resides out of the township where judgment was rendered, how to proceed

Sec. 90. When the judgment debtor or debtors reside out of the township in which such judgment was obtained, it shall be lawful to issue execution to any constable of the township in which judgment was rendered, or of the township in the same county, wherein such judgment debtor or debtors may reside; and it is hereby made the duty of such constable to levy said execution, collect and pay over the money to the justice of the peace issuing the same, as in other cases: and the justice shall have power to proceed against the bail for stay of execution, who may reside in any other township in the county, in the same manner he would be authorized to do, if such bail resided in his proper township; and any constable of the township where such justice may reside, is hereby authorized to serve and return the proper process against such bail.

When judgment debtor has goods in another township, how to proceed

Sec. 91: When the constable shall make return that sufficient goods and chattels cannot be found in the township where the justice resides who issued the execution, and it shall be suggested to the justice that the party against whom the same issued, has goods and chattels within any other township, in the same county, it shall be lawful for the justice to issue execution to any constable of the township in which such justice resides, or of the township where such goods and chattels may be found; which execution the said constable is hereby authorized and required to execute and return to the justice issuing the same, in like manner as if such justice resided in the township, in which such goods and chattels were found.

Duty of constable receiving execution from another township

Sec. 92. And in all cases where execution shall be directed to any constable of a township, in which the justice who issued the same does not reside, it shall be the duty of the constable receiving such execution, to execute and return the same in every respect, as if it had been issued by a justice in the same township with the constable; and for every neglect or misconduct in proceeding with such execution, the constable shall be liable to be proceeded against as in other cases: and the justice issuing the execution, shall have power to send process out of his township, to bring such constable before him, to be dealt with as right and justice may require; and any constable of the township where such justice resides, is hereby authorized to serve and return said process.

Duty of justice receiving a transcript

Sec. 93. In all cases where a transcript of a judgment, and proceedings of a justice of the peace, shall be duly certified

and signed by the justice rendering the judgment, or by some other competent person, and delivered to another justice of the peace, for the purpose of having the same carried into execution, it shall be the duty of the justice receiving such transcript, to enter the same on his docket, and thereupon to issue, at the request of the party, in whose favor such judgment was rendered, or his agent, either a writ of *capias* or a writ of *scire facias*, against the judgment debtor; by which *scire facias* such debtor shall be required to appear and show cause, if any he can show, why execution should not issue against him for the amount of the judgment and costs, or so much thereof as remains due and unpaid, as stated in such transcript.

script from another justice, for the purpose of carrying judgment into execution

Sec. 94. When such writ of *capias* shall be returned, executed, or such *scire facias* be served and returned, in the same manner a summons is required to be served and returned in other cases, and it shall appear to the justice that any part of the judgment, whereof a transcript has been taken as aforesaid, remains due and unpaid, and no cause being shown to the contrary, it shall be the duty of such justice to render judgment for the sum so remaining due and unpaid, and for the costs that have accrued, and to issue execution therefor.

Further proceed-
ings thereon

Sec. 95. When the creditor or other person, intending to bring an action before a justice, is a non-resident of the township in which he intends to commence such action, the justice may, previous to his issuing process, require such person to give security for the costs of suit; and upon such requisition, the party intending to commence such action, shall either deposit with such justice, a sum of money sufficient to discharge the costs that may accrue in the prosecution of such action, or enter into recognizance to the adverse party, with sufficient surety resident in the township, conditioned for the payment of all costs that may accrue in the prosecution of such action.

Justice may re-
quire non-resi-
dent plaintiff to
give security for
costs

Sec. 96. If any constable shall fail to pay over any money by him received in his official capacity, or shall fail to make return, or shall make a false return, he shall be liable to the action of the party injured thereby; which action may be prosecuted to final judgment and execution before any justice of the peace, having jurisdiction of the amount of damages claimed on account of such delinquency.

Proceedings
against constable
for failing to pay
over money, or
making false
return

Sec. 97. And, if on the trial, judgment should be rendered against such delinquent constable, the same shall be entered for the amount of damages sustained, together with costs, and ten per cent. penalty thereon; and the justice shall forthwith issue execution for the collection of the same.

Judgment
against constable
with penalty of
ten per cent.

Sec. 98. When a constable shall levy on property claimed by any person or persons, other than the party against whom the execution issued, the claimant or claimants shall give three days' notice in writing to the plaintiff, or his agent; or if not found within the county, then such notice shall be served by leaving a copy thereof at his usual place of abode in such county, of the

When constable
levies on prop-
erty claimed by
another, how to
proceed

time and place of the trial of the right to such property; which trial shall be had before some justice of the township, at least one day prior to the time appointed for the sale of such property.

Claimant establishing his right, shall recover costs, and property shall be restored

Sec. 99. If on the trial, the justice shall be satisfied from the proof that the property, or any part thereof, belongs to the claimant or claimants, such justice shall render judgment against the party in whose favor such execution issued, for the costs, and issue execution therefor; and shall moreover give a written order to the constable who levied on, or who may be charged with the duty of selling such property, directing him to restore the same, or so much thereof as may have been found to belong to such claimant or claimants.

Failing shall pay costs

Sec. 100. But if the claimant or claimants fail to establish his or their right to such property, or to any part thereof, the justice shall render judgment against such claimant or claimants, for the costs that have accrued on account of such trial, and issue execution therefor; and the constable shall not be liable to the claimant or claimants for the property so taken.

In what cases further process of execution may issue

Sec. 101. In all cases where the constable shall make it appear to the satisfaction of the justice, that he has been deprived of an opportunity of levying an execution within the time prescribed by this act, or otherwise prevented from making the whole of the money therein required to be made, and shall make return to the justice who issued the same to that effect, such justice is hereby authorized and required to issue further process of execution, for the amount or balance remaining unsatisfied; which shall be served and returned in all respects as other executions are under this act.

Constable to pay over money or produce plaintiff's receipt in sixty days

Sec. 102. It shall be the duty of all constables to pay over to the justice from whom execution or executions issued, all moneys by them collected, or produce to the justice a receipt from the plaintiff or his agent, for the amount of such execution or executions, within sixty days after collecting the same; and every justice of the peace shall give his receipt for all moneys by him received in his official capacity, to the person from whom he shall have received the same, if required.

Justices may appoint special constables in certain cases

Sec. 103. In all cases where there is no constable in any township in this State, or in the absence or disability of a constable of the township, or where the constable is a party to the suit, it shall be the duty of any justice of the peace, in case it be necessary that the process should be immediately served, either in criminal or in civil cases, to appoint a person willing to serve as a constable for the time being; which appointment shall be in writing, under the hand and seal of such justice, and shall specify the cause of such appointment: and the person so appointed as constable, shall have the same authority as any other constable, without giving the security necessary in other cases; and he shall be liable for neglect of duty or illegal proceedings, and shall receive the same fees and compensation, as constables are

entitled to by law for similar services; and shall act until the vacancy be again supplied.

Sec. 104. Justices of the peace shall receive from constables ^{Justice to receive and pay over money} all moneys by them collected; and all other moneys by such justices collected, with or without execution, and received in their official capacity, for the use of any other person or persons, shall be by them paid over to such person or persons, his or their agent: and if any justice shall refuse or neglect to pay over all moneys by [him] collected or received as aforesaid, when the same shall be demanded of him at his office or place of residence, to the person or persons entitled thereto, or to his or their agent; every such justice shall be liable to the action of the party injured thereby, for the recovery of such money, together with interest and ten per cent. penalty thereon, and costs of suit: of which act on any justice of the peace shall have jurisdiction, according to the provisions of this act.

Sec. 105. When any person shall be subpoenaed to attend ^{Witness failing to obey subpoena or refusing to testify} and give evidence, in any suit, action, complaint or other proceeding, civil or criminal, pending before a justice of the peace, and shall fail to attend at the time and place specified in such subpoena, having no reasonable excuse to assign for such failure; or if such person, attending as a witness, shall refuse to testify: every such person shall be fined in any sum not exceeding ten, nor less than three dollars; for which fine, the justice shall render judgment in the name of the State, and issue execution therefor: and such witness shall, moreover, be liable to the action of the party injured, for such damages as he or she may have sustained for the want of the testimony of such delinquent witness, to be recovered before any justice of the peace, or other court having jurisdiction thereof.

Sec. 106. And justices of the peace shall have power, in all ^{Justice may compel attendance of witnesses} actions, suits, complaints and prosecutions, in civil or criminal cases, pending before them, to compel, by attachment, the attendance of any person subpoenaed as a witness, and refusing or neglecting to obey such subpoena, as aforesaid.

Sec. 107. If any party shall order a subpoena for more than ^{Fees of extra witnesses how paid} two witnesses to prove the same fact, or in case any witness shall be subpoenaed, and not called and examined by either party; then, and in such cases, the party ordering such subpoena shall pay the witness or witnesses, exceeding two to the same fact, or not called and examined; unless in the latter case the defendant should confess judgment, or admit before the justice the claim or demand to be just, or the plaintiff become non-suit; in which case, the fees of such witness or witnesses shall be taxed and collected with the costs of suit.

Sec. 108. The jurisdiction of justices of the peace shall ^{Jurisdiction of justices in trespass on real estate} extend to actions of trespass on real estate, in cases where the damages demanded for such trespass shall not exceed the sum of one hundred dollars; and no claim of title to such real estate,

set up by the defendant, shall take away or affect the jurisdiction hereby given.

Actions of which justices shall not have jurisdiction

Sec. 109. But the jurisdiction of justices of the peace shall not extend to actions to recover damages for an assault, or assault and battery; or for malicious prosecution; or to actions against justices of the peace, or other officers, for misconduct in office, except in the cases provided for in this act; or to actions of ejectment, or in replevin; or for slander, verbal or written; or actions on contracts for real estate; or actions in which the title to land and tenements may be drawn in question, except actions of trespass on real estate which are provided for in this act.

If suit of which justice has jurisdiction be commenced in other court, no costs recovered

Sec. 110. If any person or persons shall commence or prosecute any action or suit for any debt, demand, or liability, of which any justice of the peace shall have jurisdiction under the provisions of this act, in any other court than that held by such justices, and shall not obtain a verdict or judgment therein, for debt or damages, which, without costs, shall amount to one hundred dollars; such person or persons shall not recover costs in such suit or action, any law to the contrary notwithstanding.

Justice may take bail &c., after his term of office has expired

Sec. 111. In all cases where judgment shall be entered by a justice of the peace, and his term of office shall expire between the date of such judgment and the time required for perfecting an appeal therefrom, or for the putting in bail for the stay of execution; it shall be lawful for such justice to take bail on such appeal, or for stay of execution, and give to the party appealing a transcript of such judgment, in the same manner he might or could do, had his term of office not expired.

When the office of coroner is vacant, a justice of the peace shall hold inquisition

Sec. 112. Whenever the office of coroner shall become vacant in any county, by death, resignation, expiration of the term of office, or otherwise; any justice of the peace of the township in which the dead body of any person supposed to have come to his or her death by violence or casualty, may be found; or if there should be no justice of the peace for such township, then any justice of the peace of the county, shall be vested with all the powers, and shall perform all and singular the duties appertaining to the office of coroner, so far as it respects the power and duty of a coroner, to hold inquisition over any dead body found as aforesaid: and when acting in the capacity of a coroner, every such justice shall be entitled to have the same fees as are or may be allowed by law to coroners in such cases.

Fines and penalties, how collected

Sec. 113. All fines, forfeitures and penalties, incurred and assessed under the provisions of this act, may be collected by execution against the goods and chattels and body of the delinquent; and when not otherwise appropriated, shall be paid into the county treasury of the county where the cause of action accrued.

Sec. 114. The following forms shall be pursued when they may be applicable, namely:

One.—Form of a recognizance for the appearance of defendant, when arrested on a capias.

THE STATE OF OHIO, county, ss.

Whereas, C. D. has been arrested, and is now in custody, Form of recognizance for appearance
at the suit of A. B., in an action of [Here state the kind of action.] Now, therefore, be it remembered, that on this day of in the year , personally came before me, G. H., a justice of the peace in and for the township of , in the county aforesaid, E. F., and acknowledged himself to owe [or if there be more than one surety, say, and jointly and severally acknowledged themselves to owe] unto the said A. B. the sum of [here insert double the amount of the sum indorsed on the writ]; to be levied of his [her or their] goods and chattels, lands and tenements, in case default be made in the condition following, which is: That the said C. D. shall be and appear before me, at my office, in the township aforesaid, on the day of in the year , to answer to the action aforesaid, and not depart without leave.

E. F.

Taken, signed and acknowledged, on the day and year aforesaid, before me,
G. H.

Two.—Form of recognizance in case of appeal.

In the action of A. B. against C. D., I, E. F. acknowledge myself [or if there be more than one surety, say, we, E. F. and J. K. do acknowledge ourselves] bail for the appellant, in the sum of [here insert double the amount of the judgment, including costs]; to be levied of my [or our] goods and chattels, lands and tenements, in case the appellant shall be condemned in the action, and shall fail to pay the condemnation money, and costs that have accrued or may accrue, in the court of common pleas. Recognizance for an appeal

(Signed.)

E. F.

Taken, signed and acknowledged, on this day of , in the year , before me,
G. H.,
Justice of the peace.

Three.—Form of recognizance for stay of execution.

In the action of A. B. against C. D. I, E. F., do acknowledge myself [or if there are more than one surety, then say, we, E. F. and J. K., do acknowledge ourselves] bail for C. D. for stay of execution, in the sum of [here insert the amount of the judgment, including costs]; to be levied of my [or our] goods and chattels, lands and tenements, if default be made in the Recognizance for stay of execution

JUSTICES AND CONSTABLES

condition following, which is: That the said C. D. shall pay the amount of the judgment rendered in the action aforesaid, together with the interest and costs, and the costs that may accrue.

(Signed.)

E. F.

Taken, signed and acknowledged, this
, in the year

day of

, before me,

G. H.,

Justice of the peace.

Four.—Form of a scire facias against bail for stay of execution.

STATE OF OHIO, county, ss.

To any constable of the township of Greeting:

Scire facias
against bail for
stay of execution

Whereas, A. B. recovered judgment against C. D., for the sum of [here state the amount of the debt or damages, and costs, according to the recovery,] on the day of

in the year , as appears of record; and whereas

E. F., on the day of , in the year

became surety on behalf of the said C. D. for the payment of the amount of the judgment aforesaid, together with interest and costs, and the costs that might accrue, to the said A. B., as appears by the recognizance of the said E. F.; which judgment, interest, and costs, remain due and unpaid: This is, therefore, to command you to summon the said E. F. to be and appear before me, at my office, in the township of in the said county, on the day of , in the year , to show cause, if any there be, why judgment should not be rendered against him for the debt, [or damages,] interest and costs, aforesaid, and why execution should not issue therefor: and of this writ make legal service and due return.

Given under my hand and seal, this day of

A. D.

G. H., [SEAL.]

Justice of the peace.

Five.—Form of execution against the goods and chattels of the defendant.

STATE OF OHIO, county, ss.

To any constable of the township of , Greeting:

Form of execution
against
goods

Whereas A. B. obtained judgment against C. D., before me, G. H., a justice of the peace for the township aforesaid, for the sum of [here state the amount recovered of debt or damages, and costs,] on the day of in the year

You are therefore commanded, that of the goods and chattels of the said C. D., you cause to be made the debt [or damages] and costs aforesaid, and costs that may accrue;* and of this writ make legal service and due return.

Given under my hand and seal, this

day of

A. D.

G. H. [SEAL.]

Six.—But if it be proper to have execution against the body Against the body of the defendant, the preceding form will be applicable to the *. From that point proceed as follows: "But for want of goods and chattels whereon to levy, then take the body of the said C. D. to the jail of the county, there to be safely kept in the custody of the jailer, until the said debt [or damages] and costs that have accrued, and that may accrue, shall be paid, or be otherwise legally discharged: and of this writ make legal service and due return.

Given under my hand and seal, this day of
A. D.

G. H." [SEAL.]

Seven.—Form of capias.

STATE OF OHIO, county, ss.

To any constable of the township of Greeting: Form of capias
You are hereby commanded to take the body of C. D., and him forthwith bring before me, G. H., a justice of the peace, at my office, in said township, to answer unto A. B., in debt [or damages, as the fact may be,] in the sum of [here insert the sum supposed to be due]: and of this writ make legal service and due return.

Given under my hand and seal, this day of
A. D.

G. H. (SEAL.)

Eight.—Form of summons.

STATE OF OHIO, county, ss.

To any constable of the township of Greeting: Form of summons
You are hereby commanded to summon C. D. to be and appear before me, G. H., a justice of the peace, at my office, in the township aforesaid, on the day of in the year at o'clock, A. M. [or P. M., as the case may be] of that day, to answer unto A. B. in a plea of debt [or trespass on the case, or trespass on land, or personal property, or other action, as the nature of the action may be]: and of this writ make legal service and due return.

Given under my hand and seal, this day of
A. D.

G. H. (SEAL.)

Nine.—Form of subpoena.

STATE OF OHIO, county, ss.

To any constable of the township of Greeting:
You are hereby commanded to summon a justice of the Form of subpoena
to appear before me, day of
peace for said township, at my office, on the day of
at o'clock, M. on said day, to give testimony, and the truth to say, in a cause pending before me, wherein is plaintiff, and

JUSTICES AND CONSTABLES

defendant. Hereof fail not, under the penalty of the law; and have you then there this writ

Given under my hand and seal, this day of
A. D.

G. H. [SEAL.]

Acts repealed

Proviso as to
rights acquired
and liabilities
incurred

Sec. 115. That the act, entitled "An act defining the duties of justices of the peace and constables, in criminal and civil cases," passed February twenty-fifth, eighteen hundred and twenty-four; and the act, entitled "An act to amend the act, entitled 'An act defining the duties of justices of the peace and constables, in criminal and civil [cases,]' passed December twenty-ninth, eighteen hundred and twenty-four; be, and the same are hereby repealed: *Provided*, That all rights acquired, and obligations or liabilities incurred, under the provisions of the acts above named, or either of them, shall not be affected or prejudiced by the repeal thereof; but may be enforced and rendered effectual under the provisions of this act.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14, 1831.

AN ACT defining the powers and duties of Justices of the Peace and Constables, in criminal cases.

Jurisdiction of
justices in criminal
cases

They shall pre-
serve the peace,
cause arrests, in-
quire into com-
plaints

They shall re-
cognize witness-
es

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That every justice of the peace shall have jurisdiction in criminal cases throughout the county in which he was elected, and where he shall reside: Second, And he shall be a conservator of the peace therein: Third, And he is authorized and required on view, or complaint made on oath or affirmation, to cause every person charged with the commission of a crime or a breach of the law, to be arrested and brought before himself, or some other justice of the peace of the same county, except as hereinafter excepted: Fourth, It shall be the duty of the justice of the peace before whom any such person shall be brought, to inquire into the complaint; and every such person, either to commit to the jail of the county, or discharge, or recognize to be and appear before the court, on the first day of the next term thereof, as the nature of the case may require: Fifth, It shall be the duty of every such justice to recognize the witness or witnesses, by him examined in behalf of the State, and whose testimony he may consider necessary in the farther prosecution of the charge, to be and appear before the court, on the first day of

the term thereof, next to be holden in, and for, the county where such recognizance was taken.

Sec. 2. When any person or persons, shall be arrested on a warrant for committing an assault, or an assault and battery, or an affray by fighting or boxing at fisticuffs, issued on the complaint of the party injured, every such person or persons shall be taken before the justice who issued the warrant, and he or they shall be admitted to plead guilty to the charge preferred: *Proceedings on arrest for an assault and battery or affray* *Provided,* That if such justice shall be absent, or otherwise incapable of acting, the person so arrested shall be taken before some other justice in the proper county; in which case, the party complaining shall be notified of the time and place of trial.

Sec. 3. And the justice before whom such plea may be pleaded, shall have power, and he is hereby authorized to assess *On plea of guilty, justice may fine* such fine as may be reasonable, not exceeding one hundred dollars, nor less than five dollars; for which he shall render judgment for the State, against the person or persons so pleading guilty as aforesaid, and for the costs of prosecution, and shall issue execution thereon as in civil cases.

Sec. 4. But the justice may, notwithstanding the plea of guilty, refuse to assess a fine thereon; in which case it shall be his duty to recognize every such person or persons, pleading as aforesaid, to appear before the court of common pleas, on the first day of the next term thereof. *Justice may refuse to fine, and shall then recognize defendant*

Sec. 5. If, however, such person or persons shall decline pleading guilty to the accusation, he or they shall, upon the hearing of such accusation, be either discharged, committed, or recognized, as the case may require. *On plea of not guilty, how to proceed*

Sec. 6. That if any person shall challenge another to fight at fisticuffs, or with cudgels, or shall provoke, or attempt to provoke, another to commit a breach of the peace; every such person shall be deemed guilty of an offence, and on conviction thereof before any justice of the peace, shall be fined in any sum not exceeding ten dollars, nor less than one dollar. *May fine for challenge to fight at fisticuffs*

Sec. 7. And the justice of the peace shall render judgment for the amount of any such fine, and for the costs of prosecution, and thereon issue execution for the collection of the same, as in civil cases. *Judgment and execution for fine and costs*

Sec. 8. No person or persons shall be prosecuted under the provisions of this act, for any offence defined in the second and sixth sections thereof, unless such prosecution be commenced within three months after any offence defined in the second section, or within ten days after any offence defined in the sixth section, shall have been committed. *Limitation of prosecution for certain offences*

Sec. 9. It shall be lawful for any person to make complaint on oath or affirmation, before a justice of the peace, stating, amongst other things, that the person making such complaint, has just cause to fear, and does fear, that another will beat, wound, or kill him or her, or his or her ward, child, or children; or will commit some other act of personal violence upon him, *Person fearing injury from another, may make complaint*

her or them; or will burn his or her dwelling house, or out-house; or will maliciously injure, or destroy his or her property, other than the buildings aforesaid.

And justices shall issue a warrant against person complained of

Sec. 10. And thereupon, it shall be the duty of any justice, to whom complaint shall be made as aforesaid, to issue a warrant in the name of the State, directed to any constable of the county, commanding him forthwith to arrest the person complained of, and him or her to take before such justice, or any other justice of the peace of the county, to answer such complaint.

And shall inquire into the truth of complaint

Sec. 11. And upon the return of such warrant, with the person accused in custody, it shall be the duty of the justice to whom it is returned, to examine into the truth of such complaint.

And may recognize the person complained of to appear at court and to keep the peace in the mean time

Sec. 12. And if, upon such examination, he shall be of opinion that there was just cause therefor, he shall order the person complained of, to enter into recognizance, with good and sufficient security, being a freeholder, or householder, in the county, in any sum not exceeding five hundred dollars, nor less than fifty dollars, conditioned for his or her appearance before the court of common pleas of the proper county, on the first day of the next term thereof; and in the mean time, that he or she shall keep the peace, and be of good behavior generally, and especially towards the person complaining.

And failing to give bail shall be committed

Sec. 13. And in default of such recognizance and surety as aforesaid, the justice shall commit the person complained of, to the jail of the county, there to remain until discharged by due course of law.

If complaint is not established, complainant shall pay costs

Sec. 14. But if the justice, on hearing, shall be of opinion that the accusation is not established, it shall be his duty to discharge the accused, and render judgment in the name of the State, against the party complaining, for the costs of prosecution; and he shall collect the same by execution as in civil cases.

Proceedings in common pleas on recognizance to keep the peace

Sec. 15. The court of common pleas, to which any recognizance to keep the peace as aforesaid, shall be returned, may, at their discretion, discharge the person accused from his or her recognizance; or may order him or her to enter into such other and further security as may be just, thereafter to keep the peace, and be of good behavior, for such term of time as the court may order.

For want of security, court shall commit

Sec. 16. And for want of such security, the court shall commit the person accused to the jail of said county, there to remain until such order be complied with, or he be otherwise discharged by due course of law.

Person complained of, if not discharged, shall pay costs

Sec. 17. Whether such person be held to bail, or be committed for the want thereof, the court shall, in either case, render judgment against him or her for the costs of prosecution, to be taxed, and award execution therefor.

If discharged, complainant

Sec. 18. But if such court, on examination of the complaint, shall discharge the person accused, they may, at their discretion,

render judgment against the person complaining for the costs of prosecution, and award execution thereon. may be taxed with the costs

Sec. 19. If any recognizance be taken under the provisions of this act, in term time of that court to which the same may be returnable, every such recognizance shall require the person or persons bound thereby, to appear forthwith before such court. Condition of recognizance taken in term time

Sec. 20. And all recognizances, authorized to be taken as aforesaid, either in term time, or vacation of that court into which the same may be returnable, shall be delivered or transmitted by the justice taking the same, to the clerk of such court, or to the prosecuting attorney for that county, without unnecessary delay, and before the commencement of the term of the court, next thereafter to be holden. if such recognizance were taken in vacation; but if the same were taken in term time, then it shall be returned forthwith. Recognizances to be returned to court or prosecuting attorney without delay

Sec. 21. It shall be the duty of every justice of the peace, in criminal proceedings, to keep a docket thereof as in civil cases: and when the party accused shall be recognized, or committed for the want of such recognizance, he shall transmit or deliver a transcript of such proceedings to the clerk of the court, or prosecuting attorney, in the manner pointed out in the preceding section, in case of recognizances; which transcript shall contain an accurate bill of all the costs that have accrued, and the items of charge composing the same. Justice to keep a docket in criminal as in civil cases, and send transcript to court

Sec. 22. If it shall become necessary, by reason of the absence of any material witness, or other just cause, to postpone or delay the trial or examination of any person charged with the commission of any crime or offence, it shall be lawful for the justice of the peace, before whom such person is brought, to commit him or her, from time to time, for safe keeping, to the jail of such county, until the attendance of such witness or witnesses can be obtained, or such other cause of delay be removed, and no longer: *Provided*, The whole term of such imprisonment in jail shall not exceed thirty-six hours. Justice may commit before examination till witnesses can be obtained

Sec. 23. In all cases, arising under the provisions of this or any other act, in which a justice of the peace shall have power to fine any person charged with the commission of an offence, it shall be lawful for every such justice to render judgment for such fine, and to tax such costs for himself, the constable and witnesses, as are or may be allowed by law, for similar services in other criminal cases, and to issue execution therefor. Where justice has power to fine he may render judgment therefor and costs, and issue execution

Sec. 24. That in every other prosecution before a justice of the peace, for any crime, the punishment whereof is capital or imprisonment in the penitentiary, and from which the person accused shall be discharged by such justice of the peace, every such justice shall be entitled to have the same fees as are or may be allowed by law for similar services in other criminal cases; to be paid out of the county treasury, on the order of In what cases justices' fees shall be paid out of county treasury

the auditor of such county, in the manner hereinafter provided.

Sec. 25. Constables shall be ministerial officers of the courts holden by justices of the peace in criminal cases, within their respective counties: Second—And it shall be their duty to apprehend and bring to justice felons and disturbers of the peace, to suppress riots, and keep and preserve the peace, within their respective counties: Third—They shall have power, and they are hereby authorized, to execute all writs and process in criminal cases, throughout the county in which they may reside, and where they were elected or appointed: Fourth—And if any person, charged with the commission of any crime or offence, shall flee from justice, it shall be lawful for any constable of the county, wherein such crime or offence was committed, and he is hereby authorized and required, to pursue after and arrest such fugitive from justice, in any other county of this State, and such fugitive to convey before any justice of the peace of the county where such crime or offence was committed.

Sec. 26. Every constable shall be entitled to have the same fees, for the execution of all process, and for other services rendered in criminal cases, wherein the State fails at any stage in the prosecution, or the party convicted proves insolvent, as are or may be allowed by law for similar services in other criminal cases; to be paid out of the county treasury, on the order of the auditor of such county.

Sec. 27. Whenever a justice of the peace, before whom any person may have been prosecuted and acquitted, according to the twenty-fourth section of this act, shall claim his fees as therein provided, it shall be the duty of every such justice to make out a certified transcript of his proceedings in the case, and therein set forth accurately and truly a bill of his costs, stating the items of charge, and deliver the same to the county auditor.

Sec. 28. Whenever any constable shall be entitled to fees according to the provisions of this act, in cases where the State had failed in the prosecution, or the accused had proved insolvent, it shall be the duty of every justice of the peace, before whom such prosecution was conducted, to make out and deliver to such constable, (if such justice had not previously transmitted one to court,) a transcript similar to the one specified in the preceding section, containing a bill of the constable's costs, which he shall deliver to the county auditor of the county.

Sec. 29. But if such justice had previously forwarded such transcript to the court, and also where the party convicted has proved insolvent, it shall be the duty of the clerk of the court, in such case, to give the constable a certificate of his costs, as they shall appear in such transcript, or as they may have been

taxed in court; which certificate the constable shall deliver to such auditor.

Sec. 30. And it shall be the duty of such auditor, after carefully examining every such transcript or certificate delivered to him as aforesaid, and correcting the errors, if any, in the charges, ^{Auditor to draw on treasurer for such costs} draw an order on the county treasurer, in favor of any such justice or constable, or his legal representatives, for the amount of such costs.

Sec. 31. All fines imposed and collected, by any justice, under the provisions of this act, shall be paid by him, unless ^{Fines under this act to be paid to county treasurer by justice in 30 days} otherwise directed by law, to the treasurer of the county where the offence was committed, for the use of such county, within thirty days after the same shall have been collected; and the justice shall take duplicate receipts therefor, one of which he shall deposit with the county auditor.

Sec. 32. If any justice shall fail to pay over such moneys as aforesaid, it shall be the duty of the treasurer of the proper county, to prosecute such delinquent justice for the recovery of the same, together with a penalty of ten per cent. thereon, in an action of debt before any court having jurisdiction thereof. ^{Justice failing, liable to penalty, and treasurer shall sue}

Sec. 33. The following forms shall be observed by justices of the peace in criminal proceedings, when they may be applicable, but may be varied to suit the nature of the case, namely:

1.—*Form of affidavit whereon to issue a State warrant.*

STATE OF OHIO, county, ss.

Form of affidavit for a State warrant

Before me, A. B., one of the justices of the peace for said county, personally came C. D., who being duly sworn according to law, deposeth and saith, that on or about the at the county of [here describe the crime or offence committed, as nearly according to the nature thereof, as the case will admit,] and this deponent says [or does verily believe, as the case may be,] that one G. H. is guilty of the fact charged, [or was aiding and assisting in the commission thereof, as the case may be,] and further this deponent saith not.

Sworn to and subscribed before me, at the } C. D.
county aforesaid, this day of }

A. B. justice of the peace.

2.—*Form of a State warrant.*

THE STATE OF OHIO, county, ss.

Form of State warrant

To any constable of said county, Greeting:

Whereas, complaint has been made before me, one of the justices of the peace, in and for the county aforesaid, upon the oath of C. D., that E. F., late of the county aforesaid, did, on or about the , at the county [here state the crime or offence, and whether it was committed by the accused, as principal or accessory, according to the affidavit]:

JUSTICES AND CONSTABLES

These are therefore to command you to take the said E. F., if he [or she] be found in your county; or, if he [or she] shall have fled, that you pursue after the said E. F., into any other county within this State, and take and safely keep the said E. F., so that you have his [or her] body forthwith before me: [or in cases where the accused may be taken before a justice of the peace, other than the one who issued the warrant, or some other justice, to answer the said complaint, and be further dealt with, according to law.

Given under my hand and seal, this day of
A. B. (SEAL.)

3.—*Form of a search warrant.*

THE STATE OF OHIO, county, ss.

To any constable of said county, Greeting:

Form of a search
warrant

Whereas it appears to me, A. B., one of the justices of the peace in and for the said county, that the following goods and chattels, to wit: [here describe the articles according to the fact,] have been, within ninety days last past, by some person or persons, feloniously taken, stolen and carried away, out of the house or from the premises of C. D., of the county of and that the said C. D. doth, on oath, [or affirmation, as the case may be,] declare that he [or she] verily believes that the said goods and chattels, [or some part thereof, to be stated according to the belief of the deponent,] are concealed in the [here state the place of concealment] of one E. F., of the township of in the county of

These are therefore to command you, in the name of the State of Ohio, with the necessary and proper assistance, to enter, in the day time, into [here describe the house, or other place as above] of the said E. F., of the township and county aforesaid, and there diligently search for the said goods and chattels; and if the same, or any part thereof, be found upon such search, that you bring the goods so found, and also the body of E. F., forthwith before me, or some other justice of the peace for said county, to be disposed of, and dealt with, according to law.

Given under my hand and seal, this day of
A. B. [SEAL.]

4.—*Form of a warrant to keep the peace and be of good behavior.*

THE STATE OF OHIO, county, ss.

Form of a peace
warrant

To any constable of the said county, Greeting:

Whereas, complaint hath been made before me, one of the justices of the peace in and for said county, by one C. D., of county, on oath, [or affirmation,] that he [or she] hath just cause to fear, and does fear, that one G. H., late of the county of will, [here state the threatened injury or violence, according to the fact, as sworn or affirmed to]:

These are therefore to command you, in the name of the

State of Ohio, to apprehend the said G. H., and bring him [or her] forthwith before me, or some other justice of the peace, within and for the said county of _____ to show cause why he [or she] should not find surety to keep the peace, and be of good behavior towards the citizens of the State generally, and the said C. D. especially, and for his [or her] appearance before the court of common pleas, next to be holden in and for the county of _____

Given under my hand and seal, this _____ day of _____
A. B. (SEAL.)

5.—*Form of recognizance of the party accused.*

THE STATE OF OHIO, _____ county, ss.
Be it remembered, that on the _____ day of _____ in the _____ year _____, C. D. and E. F. personally appeared before me, A. B., one of the justices of the peace in and for the county aforesaid, and jointly and severally acknowledged themselves to owe the State of Ohio the sum of _____ dollars, to be levied of their goods and chattels, lands and tenements, if default be made in the condition following, to wit:

The condition of this recognizance is such, that if the above bound C. D. shall personally be and appear before the court of common pleas, on the first day of the term thereof, next to be holden in and for the county aforesaid; [or if such recognizance be taken in term time, then it shall require the party to appear forthwith before such court,] then and there to answer a charge of* [here name the crime or offence with which the party is charged], and abide the judgment of the court, and not depart without leave; then this recognizance shall be void: otherwise it shall be and remain in full force and virtue in law. Taken and acknowledged before me, on the day and year first above written.

A. B., Justice of the peace.

6.—If the recognizance should be to compel the appearance of witnesses on behalf of the State, then the condition thereof will run thus: The condition of this recognizance is such, that if the above bounden C. D. shall personally be and appear before the court of common pleas, on the first day of the term thereof, next to be holden for the county aforesaid, [or forthwith as the case may require,] to give evidence, and the truth to say, on behalf of the State, touching such matters as shall then and there be inquired of him [or her], and not depart the court without leave; then this recognizance shall be void: otherwise it shall remain in full force and virtue in law.

Taken and acknowledged before me, on the day and year above written.

A. B., Justice of the peace.

7.—If the recognizance be to keep the peace, then follow the fifth form to the star; and after stating the offence as there

Recognizance to required, proceed thus: And abide the order of the court there-
keep the peace on, and in the mean time to keep the peace, and be of good
behavior towards the citizens of the State generally, and es-
pecially towards the said C. D.; then this recognizance shall
be void: otherwise to be and remain in full force and virtue in
law. Taken and acknowledged before me, on the day and
year first above written.

8.—*Form of a commitment for want of bail, and in cases not bailable by law.*

county, ss.

To the keeper of the jail of the county aforesaid, Greeting:
Whereas, C. D., late of said county, has been arrested, on the oath of E. F., for [here describe the crime or offence], and has been examined by me, A. B., one of the justices of the peace in and for said county, on such charge, and required to give bail in the sum of _____ dollars, for his appearance before the court of common pleas of said county, on the first day of the next term thereof, [or forthwith, as the fact was; but this requisition of bail is only to be made and stated in bailable offences;] which requisition he has failed to comply with: Therefore, in the name of the State of Ohio, I command you to receive the said C. D. into your custody, in the jail of the county aforesaid; there to remain until he [or she] be discharged by due course of law.

Given under my hand and seal, this

day of

A. B. (SEAL.)

9.—*Form of commitment, pending a trial.*

THE STATE OF OHIO.

county, ss.

To the keeper of the jail of the county aforesaid, Greeting:
Whereas, C. D., of the county aforesaid, has been arrested,
on the oath [or affirmation] of E. F., for [here state the crime
or offence according to the fact,] and has been brought before
me, A. B., one of the justices of the peace in and for said coun-
ty, for trial, at the seat of justice thereof; which trial has been
necessarily postponed by reason of the [here state the absence
of a material witness, or other cause of delay, according to the
fact]: Therefore, I command you, in the name of the State,
to receive the said C. D. into your custody, in the jail of the
county aforesaid; there to remain until discharged by due
course of law.

Given under my hand and seal, this

day of

A. B. (SEAL.)

10.—*Form of a subpoena for witness.*

STATE OF OHIO.

county, ss.

To any constable of the county, Greeting:
You are hereby commanded to summon

to be and appear before me, A. B., one of the justices of the peace, in and for said county, at _____ forthwith, and there to give testimony and the truth to say, touching a certain complaint made on behalf of the State, against _____ and hereof fail not, under the penalty of one hundred dollars; and have you then there this writ.

Given under my hand and seal, this _____ day of _____
A. B. (SEAL.)

This act to take effect and be in force, from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 11, 1831.

AN ACT allowing and regulating writs of attachment before justices of the peace.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any creditor, his agent or attorney, shall file an affidavit with any justice of the peace within this State, setting forth that his debtor absconds to the injury of his creditor, or that such debtor is not a resident of the county, as he verily believes, the said justice shall thereupon issue a writ of attachment under his hand and seal, directed to any constable of his proper county, commanding him to execute the same, on the goods, chattels, rights, credits, moneys and effects of the defendant, within the county, and make return thereof within twenty days.

Justice to issue writ upon oath of creditor, &c.

Command of writ

Sec. 2. That the constable, in executing such writ of attachment, shall go to the place where the defendant's property may be found; and in the presence of at least two credible persons, declare, that by virtue of the writ to him directed, he attaches the goods, chattels, rights, credits, moneys and effects of said defendant, at the suit of such plaintiff in attachment: and the said constable shall take to his assistance two respectable freeholders, who, under oath or affirmation, (which oath or affirmation the constable is hereby authorized to administer) shall make a true inventory and appraisal of the property so attached; which shall be signed by the said constable and freeholders, and returned with the writ: and the constable shall indorse on said writ, the time and manner of serving the same, and subscribe his name thereto; and such writ when served, shall bind the property so attached from the time of executing the same.

How constable shall execute writ

Constable, &c. to make an inventory, &c.

To indorse writ which shall bind property

Sec. 3. That any person taking out a writ of attachment from a justice of the peace, shall forthwith advertise, in three of the most public places in the proper county, and in some newspaper printed in the county, if a newspaper be printed therein;

Party to advertise and give notice

and if no paper be printed in such county, such notice shall be advertised in some paper in general circulation in said county, that an attachment has been taken out from such justice against such absent or absconding debtor: and shall transmit to the justice a copy thereof, and shall produce to him satisfactory evidence of having advertised agreeably to the requisitions of this section, thirty days previous to rendering judgment.

Constable to take care of the said property, unless bond be given
Condition of bond :
 Sec. 4. That the property attached shall be taken into the care of the said constable, unless the garnishee, or person in whose custody or possession the said property may be found, shall enter into bond to the constable, with two good and sufficient sureties, within the county, in double the appraised value of such property, conditioned that such property, or the appraised value thereof, shall be forthcoming to answer the judgment on said attachment: *Provided*, That if the said property, or any part thereof, shall be lost by unavoidable accident, said justice, upon sufficient proof being made, shall remit the value thereof to the person so bound.

Property claimed by another, how to proceed
 Sec. 5. That if any constable, by virtue of a writ of attachment, shall attach any goods, chattels or effects, which shall be claimed by any other person as his property, the claimant may at any time within ten days after the levy, prefer his claim in writing to the justice of the peace who issued such attachment, setting forth therein the particular items of property which he claims: whereupon, the justice shall make out in writing, under his hand and seal, and deliver to the constable, a notice, setting forth the name of the claimant, the property claimed, and the day and place at which the right thereto will be tried; a copy of which notice shall be delivered to the plaintiff in attachment, his agent or attorney, or left at his usual place of abode, at least three days before the day of trial: and the original notice shall be returned by the constable to the justice of the peace, with the time and manner of service indorsed thereon; and the justice shall issue such subpoenas for witnesses as may be demanded by either party.

Justice to enter judgment on docket, and how
Costs of trial how taxed
 Sec. 6. That if on trial the justice shall determine the right of property to be in the claimant, he shall enter up judgment on his docket that the said claimant recover of the plaintiff in attachment, the goods and chattels so claimed, or such part thereof as may be found in him, together with his reasonable costs; and if the right of property be found against the claimant, the justice shall render judgment against him for costs: and where part of the property claimed is recovered by the claimant, and part thereof is adjudged to be in the defendant in attachment, the costs shall be divided in such manner as shall be reasonable and just: and in all cases when any property so claimed is adjudged to be in the claimant, if no appeal be taken or writ of certiorari issued out and served, within ten days after the rendition of such judgment, the justice shall issue an

order to the constable in whose custody the property may be, ^{Order for delivery of property} describing with reasonable accuracy the property so recovered, and commanding the constable to deliver over the same to the successful claimant; which order the constable shall forthwith obey, and he shall not be liable thereafter to an action for having attached such property.

Sec. 7. That in all cases when the right of property shall be disputed by any claimant, and a trial shall be had, the judgment of the justice therein may be appealed from, or taken up by certiorari to the next court of common pleas, as in other cases, on the appellant giving sufficient security for the costs of such appeal. ^{An appeal or certiorari allowed}

Sec. 8. That if on trial, the justice adjudge the property claimed to be in the claimant, and the plaintiff appeal, or sue out a certiorari, if such appeal be perfected, or such certiorari served within ten days after the rendition of such judgment, the property shall remain in the custody of the constable, and be disposed of in the same manner as if it had not been claimed; unless the claimant shall, within ten days after the rendition of such judgment, file with the justice, a bond, payable to the defendant in attachment, with good and sufficient security, in double the appraised value of such property, conditioned that if final judgment shall be had in the court of common pleas against such claimant, that he will pay the appraised value of such property to the said justice, or such other justice as shall have charge of the suit, for the use of such persons as may be legally entitled thereto: in which case the property shall be delivered to the claimant in the same manner as if no appeal had been taken; and the justice shall file such bond in his office for the use of such persons as may be interested therein: and if final judgment shall be given against the claimant, on an appeal or certiorari, such claimant, (or if bond shall have been given as aforesaid, the obligors therein) shall be held indebted to the defendant in attachment, in the full amount of the appraised value of such property; ^{When plaintiff appeals, officer to keep property or claimant give bond} which debt shall be bound in his or their hands by the attachment, and judgment therefor shall be had against him or them on a scire facias sued out from such justice, at any time after the rendition of judgment on such attachment, by order of the plaintiff in attachment, or other person interested therein; which shall be served and returned as in other cases. ^{Condition}

Sec. 9. That if, on such trial, the justice shall adjudge the right of property not to be in the claimant, and an appeal shall be taken thereon, or a certiorari served within ten days after such judgment, the property shall be delivered to the claimant, on his giving bond and security, as provided in the eighth section of this act: but if no such bond and security be given within ten days after the rendition of such judgment, the property shall remain in the hands of the constable, to be disposed of in the same manner as if it had not been claimed; and in all cases when the property so claimed shall be sold by the constable, ^{When appeal is taken, claimant may have property on giving bond} ^{When property sold, avails none applied}

How disposed of
after final judg-
ment

pending the appeal or certiorari, the avails of such sale shall be paid over to the justice, and remain in his hands until final judgment shall be given: and if on final judgment, the property shall be adjudged to be in the claimant, the property, or the money made by the sale thereof, shall be delivered or paid over to him; otherwise, it shall be apportioned in the same manner as other moneys paid in on such attachment.

Costs how taxed
and paid

Sec. 10. That all costs which shall be adjudged against the plaintiff in attachment, on the trial of the right of property, whether the same accrue before the justice, or in the court of common pleas, shall be taxed in the general cost bill, and paid in the same manner as the other costs on such attachment; and any creditor who shall have filed his claim therein, may appeal from the decision of such justice, adjudging the right of property so attached to be in the claimant: and in every case, unless an appeal be taken within ten days after the rendition of judgment, or a certiorari be sued out, and served before the end of the next session of the court of common pleas for the proper county, the judgment of the justice shall forever conclude the right of property between such creditors and the claimant.

Upon appeals,
claimant shall be
plaintiff

Sec. 11. That on every appeal taken as aforesaid, the claimant shall be plaintiff in the court above, and may declare against the plaintiff in attachment in detinue; and the cause shall be tried at the first term of the court to which it is appealed, unless good cause for a continuance be shown.

Garnishee may
be summoned

Service

Must answer on
oath

Suit against gar-
nishee shall be
continued

Sec. 12. That if the plaintiff, or other credible person, shall make oath or affirmation, that he has good reason to believe, and does verily believe, that any person is indebted to, or hath property, (describing the same as nearly as may be) in his possession, belonging to the defendant in attachment: and if the said constable, making service of such writ of attachment, cannot come at the property of the defendant in attachment, in the hands and possession of such person; the said constable shall summon such garnishee, by leaving with him, or at his usual place of residence, a copy of such writ of attachment, and a copy of the affidavit, together with a written notice to such garnishee, to appear before the said justice within five days; who shall give attendance accordingly, and make answer, under oath or affirmation, to all questions that shall be put to him, touching the property and credits of the defendant, in his hands and possession, or within his knowledge: and from the day of such service, such garnishee shall stand accountable to the plaintiff in attachment, to the amount of the moneys, property and credits, in his hands, or due from him to the said defendant in attachment.

Sec. 13. That the suit instituted against such garnishee, shall be continued without trial or decision, until the action against such defendant in attachment shall be determined: and if in such action nothing shall be found due from the defendant to the plaintiff, then the garnishee shall recover costs against the plaintiff; or if, in such suit, so instituted against the garnishee, the

plaintiff shall be non-suited, his suit discontinued, or judgment be had against him, the said garnishee shall recover costs: and if the plaintiff shall recover judgment against the defendant in such attachment, and the garnishee shall deliver up to the constable, before judgment is had against him, all the goods, chattels, and other property of such defendant, in his possession, and shall also pay over to the said justice all moneys due from him to said defendant, then the costs which shall have accrued on such suit, against the garnishee, shall be paid out of the proceeds of the property attached and belonging to the defendant; but if the garnishee shall not appear, or if appearing, shall refuse truly to confess the matters alledged, and the plaintiff, on trial, shall recover judgment, the said garnishee shall pay costs.

In what cases he shall recover costs, and how they shall be paid

Sec. 14. That if the plaintiff will make oath or affirmation before the justice issuing said attachment, that he is in fear said garnishee will abscond before judgment can be had, and that he verily believes said garnishee hath moneys, goods, chattels or effects in his possession, or is indebted to the said defendant, it shall be lawful for said justice to issue a warrant against such garnishee or other person, holding property of the said defendant, who shall enter into recognizance, with one good and sufficient surety, to pay any sum and costs, that may be awarded against him in said suit, as garnishee; and on failure to enter into such recognizance, he shall be committed.

When and how a warrant shall issue against garnishee

Sec 15. That upon return of said writ of attachment, if the creditor or creditors shall make sufficient proof of the debt due him or them, and also of the goods, chattels, rights, credits, moneys and effects in the hands of the garnishee, the said justice shall, at any time after the expiration of thirty days, give judgment therein for the said plaintiff or plaintiffs, as the case may be, and award execution thereon, either against the effects of the defendant or against the garnishee, as the case may require: *Provided*, The amount proved by any one of the creditors doth not exceed the sum cognizable before a justice of the peace in other cases: *Provided also*, That if the plaintiff shall fail in proving a demand against the defendant, or in proving the goods, chattels, rights, credits, moneys and effects in the hands of the garnishee, he shall pay the costs; and if need be, the said justice shall give judgment against such plaintiff, and issue execution for the same.

When the justice shall give judgment for plaintiff and award execution

Sec. 16. That if upon proof made as aforesaid, it shall appear that a sum greater than the amount cognizable by a justice of the peace, is due and owing to any one person, then, and in that case, the said justice shall forthwith certify his proceedings, together with the writ and constable's return, to the court of common pleas, next to be holden in said county; and the court shall proceed therein, as if the writ of attachment had originally issued from said court.

Proceedings may be certified to court of common pleas

Sec. 17. That the effects of the defendant, taken by attach-

Perishable articles may be sold on ten days' notice

ment, shall be kept without sale, in such manner as the justice shall direct, for at least three months, except the same shall be live stock or property of a perishable nature; in which case it shall be sold in a reasonable time after the rendition of the judgment, on ten days' previous notice being given, as in other cases: and if any such stock or property shall be lost in the hands of the constable, by unavoidable accident, the justice shall make him an adequate allowance therefor.

Justice to adjust demands, and pay an equal proportion to each creditor

Sec. 18. That the justice shall have power to audit and adjust all accounts and demands of the plaintiff and creditors of the defendant in attachment, upon due proof of the same being made within three months from and after issuing said attachment; and if the money collected by virtue of the sale of said property, be not sufficient to satisfy in full, the demands or accounts proven against said defendant, then the justice shall pay an equal proportion to each creditor, according to his demand thus adjusted, after deducting the legal costs which may have accrued by virtue of such attachment: and the said justice shall allow to the said constable and appraisers, such compensation as shall appear to him just and reasonable, for services not otherwise provided for by law.

Constable, &c. allowed compensation

If plaintiff discontinues, creditor may proceed

Sec. 19. That if the plaintiff in attachment shall discontinue or dismiss his suit after any other creditor or creditors shall have filed their claims, such creditors may proceed to final judgment; and the officer shall retain the property so attached in his custody, and proceed therewith in the same manner as if such original suit had not been discontinued or dismissed.

Costs, how paid

Sec. 20. That if sufficient moneys and effects cannot be found to satisfy the legal costs of such attachment and service, such costs, including all costs which shall have accrued in any trial with any person summoned as garnishee, shall be discharged by the creditors, in proportion to their several demands adjusted as aforesaid; and all judgments rendered by the justice, by virtue of this act, may be taken up by appeal or otherwise, as in other cases.

Appeals, &c. allowed

Sec. 21. That where an attachment is levied on goods in the possession of a consignee, the lien of the consignee shall not thereby be taken away.

Consignee, his lien
Justice may certify proceedings to court when no goods, and writ may issue against lands

Sec. 22. That if on the return of an attachment issued against the goods, chattels, rights, credits, moneys and effects of an absconding debtor, it shall appear to the justice that there were no goods, chattels, rights, credits, moneys and effects, or not a sufficiency whereon to levy, the justice, on the application of the plaintiff, shall certify his proceedings therein to the next court of common pleas for the proper county: whereupon an attachment shall issue from said court, and be executed by the sheriff of said county on the lands and tenements of the defendant, which shall be within such county; and the same proceedings shall be had thereon as in other cases of attachment sued out originally from the court of common pleas.

Sec. 23. That in all cases where a writ of attachment is issued by virtue of the provisions of this law, the following ^{Sum claimed to be indorsed on writ} form shall be pursued, as nearly as the same may be proper and applicable; and the justice shall, in all cases, indorse on the back of said writ the amount of the sum claimed, that the defendant, or any one for him, may pay the same and costs, if such defendant or his agent so elect: and upon the return of such writ, if said sum and costs be paid, the justice shall enter a judgment of non suit.

Form of a writ.

THE STATE OF OHIO:

To any of the constables of _____ township,
_____ county—Greeting:

Whereas, A. B. hath this day made oath, [or affirmation, as the case may be,] that C. D. is justly indebted to him, and that ^{Form} the said C. D. absconds, to the injury of his creditors, [or that the said C. D. is not a resident, &c., as the case may be] as he verily believes; you are, therefore, hereby commanded to attach the goods, chattels, rights, credits, moneys and effects of the said C. D. which may be in your county, agreeably to law: and whereas A. B. hath made oath [or affirmation,] that he does verily believe that E. F. is indebted to, [or hath property of, as the case may be,] the said C. D.; you are therefore commanded to summon the said E. F. agreeably to law, that he appear before G. H., a justice of the peace within said township, on the _____ day of _____, 18____, then and there to make answer, under oath or affirmation, touching the property and credits of the said C. D. within his knowledge or possession: hereof fail not; and of this writ make legal service and due return according to law: Given under my hand and seal, this _____ day of _____, 18____

[SEAL.]

G. H.,

Justice of the peace in and for said township and county.

Sec. 24. That the act allowing and regulating writs of attachment before justices of the peace, passed January first, one thousand eight hundred and sixteen, is hereby repealed.

This act to take effect and be in force from and after the next first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 7th, 1824.

AN ACT to regulate the action for forcible entry and detainer.

Two justices to inquire of forcible entry and detainer

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That two justices of the peace shall have authority to inquire by jury, in the manner hereinafter directed, as well against those who make unlawful and forcible entry into lands and tenements, and detain the same, as against those who, having a lawful and peaceable entry into lands or tenements, unlawfully and by force hold the same: and if it be found, upon such inquiry, that an unlawful and forcible entry hath been made, and that the same lands or tenements are held and detained with force, or that the same, after a lawful entry, are held unlawfully and with force, then such justices shall cause the party complaining to have restitution thereof.

Sec. 2. That when complaint shall be made in writing, to any two justices of the peace, of any unlawful and forcible entry into any lands or tenements, and detainer as aforesaid, or of any unlawful or forcible detainer of the same, after a peaceable entry, particularly describing the premises so entered upon or detained; they shall make out their warrant, under their hands and seals, directed to the sheriff, or in case of his absence or legal disqualification, to the coroner of the same county, commanding him to cause to come before them, six judicious, disinterested men of the county, who shall be freeholders in said county; which warrant shall be in the following form, to wit:

THE STATE OF OHIO, county, ss.
 Form of warrant A. B. and C. D., two of the justices of the peace in and for
 the said county of , to , of said
 county, Greeting;

Whereas, complaint is made to us, by E. F. of
for forcible entry and detainer, of the lands and tenements, (or
forcible detainer, as the case may be,) of the said E. F.: You
are therefore commanded; on the behalf of the State of Ohio,
to cause to come before us, upon the day of , at
 , in the said county, six judicious, disinterested men
of the county, who shall be freeholders in the same, to be im-
panneled and sworn, to inquire into the forcible entry and de-
tainer, (or the forcible detainer only, as the case may be,) afore-
said. Given under our hands and seals, the day of ,
in the year .

A. B. } Justices of the peace.
C. D. }

Sec. 3. That where forcible detainer only shall be alleged in the complaint, it shall be the duty of the complainant to notify the defendant at least ten days prior to issuing the writ, to leave the premises: which notice shall be served by leaving a written copy with the defendant, or at his usual place of abode, when he cannot be found.

Sec. 4. That when the complaint shall specify both forcible entry and detainer, it shall be the duty of the jury, if they find a verdict of guilty, to designate in such verdict, whether they find the defendant guilty of forcible entry and detainer, or forcible detainer alone; and if the latter only, they shall also find whether the requisite notice had been given; and if such notice shall not have been given, the complainant shall not recover costs.

Duty of jury in finding verdict

Sec. 5. That it shall be the duty of the justices, at the time they issue their warrant, to issue their summonses to the party complained against; which summonses shall state the cause of complaint, and the time and place of trial: the summonses shall be served upon the party complained against, or a copy thereof left at his usual place of abode, at least seven days before the day appointed by the justices for the trial; and if, after the service of such summonses, the party does not appear to defend, the justices shall proceed to the inquiry in the same manner as if he were present: and when the jury shall appear, they shall be impaneled to inquire into the entry or forcible detainer complained of; and the justices shall lay before the jury the exhibited complaint; and shall administer an oath or affirmation to the jurors, to well and truly try whether the complaint of E. F., now laid before them, is true, according to the evidence.

**Justice to issue
summons to the
defendant**

How served

Oath of Jurors

Sec. 6. That if, the jury shall find no part of the same true, they shall return a general verdict of not guilty; and it shall be the duty of the justices to render up judgment against the complainant, and thereupon tax the bill of costs, and issue execution against the said complainant, returnable in twenty days: and if the jury shall find the same true, they shall return a general verdict of guilty, or they shall return a special verdict of such parts as they do find true; and the justices shall render up judgment for the complainant, to have restitution of premises, and costs; and shall, immediately after the expiration of ten days from the time of entering up said judgment of restitution, issue their writ of restitution accordingly.

On verdict of "not guilty," judgment against complainant for costs

**On verdict of
"guilty," judg-
ment against de-
fendant for costs
and restitution**

Sec. 7. That the said writ shall be in the form following, to wit:

STATE OF OHIO, county, ss.

A. B. and C. D., two of the justices of the peace in and for said county, to the _____ of said county, Greeting:

**Form of writ of
restitution**

Whereas, at the court of inquiry of forcible entry and detainer, [or an unlawful and forcible detainer, as the case may be,] held before us, at in said county of on the day of in the year of ; the jurors impaneled and sworn according to law, did return their verdict of guilty: whereupon, it was considered by us, that the said E. F. should have restitution of the premises described in his complaint; [or any particular part thereof, as the case may be]: therefore, we require you,

FORCIBLE ENTRY

that, taking with you the force of the county if necessary, you cause the said G. H. to be forthwith removed from the premises, and the said E. F. to have the peaceable restitution of the same; and also, that you levy of the goods and chattels of the said G. H., the sum of being costs taxed against him on the trial aforesaid, together with for this writ, and satisfy yourself your legal fees: and for want of such goods and chattels of the said G. H., by you found, you are commanded to take the body of the said G. H., and him commit to the common jail of said county, there to remain until he shall pay the sum aforesaid, together with all fees arising on the service of this writ, or until he be discharged by due course of law; and make return of this writ, with your proceedings thereon, within twenty days from the date thereof. Witness our hands and seals, at aforesaid, the day of in the year

A. B. } justices of
C. D. } the peace.

Pannel may be
filled with tales
men

Sec. 8. That if by accident or challenge for cause, there should not be a full jury, the sheriff or other officer, as the case may be, shall fill the pannel with talesmen, as in other cases.

No appeal, but
certiorari may
be allowed

Sec. 9. That no appeal shall be allowed from the judgment of the justices; but the proceedings of said justices may be removed by certiorari into the court of common pleas, holden in such county, and be there revised or set aside for irregularity, if such there be: nor shall such judgment, or the judgment rendered on the verdict of the jury hereinafter mentioned, be a bar to any after action brought by either party: *Provided,*

Verdict no bar to
after action

No certiorari
after ten days

That no writ of certiorari to remove the proceedings of said justices, shall issue after the expiration of ten days from the day on which such judgment was rendered.

Bond to be given
before certiorari
issues

Sec. 10. That the person applying for a writ of certiorari, shall, before the same is issued, give bond with good and sufficient security, to the defendant in certiorari, to be approved of by the clerk of the court issuing the same, in the penal sum of five hundred dollars, conditioned for the faithful prosecution of the said suit; and in case of failure, that he will pay all costs, rents, and damages, which may be assessed, to the defendant in certiorari, as hereinafter provided; which bond shall be lodged with said clerk, for the use of the defendant.

Condition
thereof

When judgment
is reversed,
plaintiff in cer
tiorari shall re
cover costs

Sec. 11. That in all cases where the proceedings of the justices of the peace, shall be brought up before the court of common pleas, in manner aforesaid, and the judgment of such justices shall be set aside or reversed by such court, the plaintiff in certiorari shall recover all his costs up to the time of setting them aside or reversal, and shall have judgment and execution therefor.

Sec. 12. That the court shall retain the cause, and proceed thereon to final judgment, as in cases of appeal, at the return

term of the writ of certiorari, unless, for good cause shown, the court continue the same: and if, on the trial of the cause, the jury, by their verdict, shall find the defendant guilty of forcible entry and detainer, or forcible detainer only, the court shall render judgment for costs, and that the complainant have restitution of the premises; and shall order a writ of restitution, and also a writ of execution against the goods, chattels, lands and tenements, and body of the defendant, to be issued accordingly, returnable to the next term of said court.

Court shall retain cause and proceed as on appeal

Sec. 13. That if the plaintiff in certiorari shall fail or neglect to prosecute the said suit to final judgment, or if the judgment and proceedings in the court below shall be affirmed; then, and in every such case, the court of common pleas, on motion of the defendant or his counsel, shall render judgment affirming the judgment and proceedings below, and for costs; and shall award execution therefor, as in other cases.

Proceedings when judgment below shall be affirmed

Sec. 14. That thereupon, if the plaintiff in certiorari were defendant below, it shall be the duty of the court, on motion, to direct a jury to be impaneled and sworn to inquire into, and assess the value of the rents accrued, and damages, if any, sustained from and after the day on which notice to quit was served on such plaintiff in certiorari; or if no such notice was given, then from the time such plaintiff in certiorari was summoned in the proceedings below.

Jury impaneled to assess rents and damages

Sec. 15. That it shall be the duty of the court to render judgment upon such finding and assessment of the jury, for the defendant and against such plaintiff in certiorari, and for the costs that may have accrued from the commencement of the proceedings below: but if such notice was not given, then costs shall be taxed only from the commencement of the proceedings in certiorari; and the court shall award execution for such costs as in other cases, and shall moreover have power to award a writ of restitution.

Court shall render judgment on the finding of the jury, &c.

Sec. 16. That whenever complaint is made under the provisions of this act, and the plaintiff does not reside in the county, it is hereby made the duty of the justices before whom the same is made, or either of them, before any warrant is issued, to take a bond with sufficient security, in the sum of one hundred dollars, payable to the party complained against, conditioned for the payment of all costs that may accrue, in case judgment be rendered against the complainant; which bond shall be filed with one of said justices, for the benefit of those interested.

Non-resident plaintiff to give security for costs

Sec. 17. That in case judgment be rendered against any party residing out of the county, or in case said party shall remove out of the county after judgment, it shall be lawful for said justices to issue their execution for costs, directed to the sheriff of the county where the party resides, or may be found; which execution shall be returnable sixty days after date.

Justices may issue execution for costs to sheriff of another county

Sec. 18. That in case any one of the justices before whom

Surviving justice may execute judgment judgment shall be obtained, shall die, or his office in any manner become vacant, before judgment shall be executed, the remaining or surviving justice shall carry the same into effect.

In what cases this action will lie

Sec. 19. That proceedings in this act may be had in all cases, against tenants holding over their term; in sales of real estate on execution, after such sales shall have been examined by the proper court, and the same by said court adjudged legal; where the judgment debtor was in possession at the time of the rendition of the judgment, by virtue of which such sale was had; and where the defendant is a settler or occupier of land, without any color of title, and to which the complainant has the right of possession.

Fees of justices and jurors

Sec. 20. That in all suits under the provisions of this act, the justices shall each be entitled to receive the sum of seventy-five cents, together with the same fees that are allowed by law, for issuing similar writs and other process; and the jurors on rendering their verdict, shall each receive fifty cents, to be paid by the party succeeding, which shall be taxed in the bill of costs, and recovered as in other cases.

Act repealed

Provide

Sec. 21. That the act, entitled "An act against forcible entry and detainer," passed January the sixteenth, in the year one thousand eight hundred and twenty-four, be, and the same is hereby repealed: *Provided*, That all causes of actions which shall have arisen prior to the taking effect of this act, shall be prosecuted in the same manner as if this act had never passed.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 25, 1831.

AN ACT for the limitation of actions.

Limitation of actions

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all actions hereinafter mentioned, shall be commenced within the several times hereinafter limited, after the cause of such action shall have accrued, and not after:

Ejectment, 21 years

First. Actions of ejectment, or any other action for the recovery of the title, or possession of lands, tenements or hereditaments, within twenty-one years:

Forcible entry, &c. 2 years

Second. Actions for forcible entry and detainer, or forcible detainer only, within two years:

Actions on written contracts, 15 years

Third. Actions upon the case, covenant and debt, founded upon a specialty, or any agreement, contract or promise in writing, within fifteen years:

Fourth. Actions upon the case and debt, founded upon any simple contract not in writing, and actions on the case for consequential damages, within six years: In case, and on contracts non-written, 6 years

Fifth. Actions of trespass upon property, real or personal, detinue, trover and replevin, within four years: Trespass, detinue, trover and replevin, 4 years

Sixth. Actions of trespass for any injury done to the person; actions of slander for words spoken, or for a libel; actions for malicious prosecutions, and for false imprisonment; actions against officers for malfeasance or nonfeasance in office, and actions of debt qui tam, within one year. Trespass on the person, slander, &c. one year

All other actions not herein enumerated, within four years after such right of action shall have accrued; and that when any action for a forfeiture or penalty shall be given, and limited by statute, such action shall be commenced within the time so limited. Actions not enumerated, 4 years

Sec. 2. That if any person, entitled to have or maintain any action of ejectment, for the recovery of the title or possession of any lands, tenements or hereditaments, be, at the time his right or title first descended or accrued, within the age of twenty-one years, *feme covert*, insane or imprisoned; every such person may, after the expiration of twenty-one years from the time his right or title first descended or accrued, bring such action within ten years after such disability removed, and at no time thereafter: and if any person entitled to any other action, limited by this act, shall, at the time such cause of action accrued, be within the age of twenty-one years, *feme covert*, insane or imprisoned; every such person shall be at liberty to bring such action, within the respective times limited by this act, after such disability shall be removed. Extension in favor of persons under disability

Sec. 3. That in all cases where the person entitled to have or maintain any action of ejectment as aforesaid, shall have been subject to the disabilities aforesaid, but which shall have been removed at any time not exceeding eleven years prior to the first of June, eighteen hundred and thirty, every such person may bring such action within ten years thereafter; but if such disability shall have ceased or been removed more than eleven, and not exceeding twenty-one years, prior to said first of June, eighteen hundred and thirty, then such person so disabled as aforesaid, shall have the liberty of bringing such action within such times after the said first of June, eighteen hundred and thirty, as being added to the excess of time over eleven years as aforesaid, will be equal to ten years, and no more. Limitation in ejectment where the person entitled to sue was under disability, which expired prior to 1st of June, 1836

Sec. 4. That in all actions founded on contract, either express or implied, made between persons resident without this State at the time such contract was made, and which are, or hereafter may be, barred by the laws of the State, country or territory, where such contract was made, shall be, and continue barred, when brought in any court of this State. Actions on contract barred by the laws of the place where made, shall be barred in this State

Sec. 5. That in all actions founded on contract, either express or implied, when any part of the principal or interest shall

Part payment, have been paid, or an acknowledgment of an existing liability, debt, or claim, or any promise to pay the same, shall have been made, within the time herein limited; such action may be commenced within the time hereinbefore limited, after such payment, acknowledgment or promise.

When judgment rendered, non-suit, &c. new suit may be commenced in one year

Sec. 6. That if in any action commenced within the time limited by this act, judgment shall be arrested or reversed, or the suit abate, or the plaintiff become non-suited, and the time limited as aforesaid shall have expired, the plaintiff may commence a new action within one year after such arrest or reversal of judgment, non-suit or abatement of action as aforesaid, and not after.

Debtor residing out of the State, or removing to place unknown, statute does not run until his return, or his residence be known

Sec. 7. That when any person shall have left the State, and remained out of the same; or shall reside out of the State, at the time any cause of action shall have accrued against him; or shall have removed to any place unknown to the person in whose favor such cause of action may exist, during such time as is limited by this act: the person who may have such cause of action, shall have a right to commence his or her action against such person, within such time as is limited as aforesaid, after his or her return or removal to the State; or, if within the State, then within such time, after his or her place of residence shall become known.

Acts repealed

Sec. 8. That the act, entitled "An act for the limitation of actions," passed February twenty-fifth, eighteen hundred and twenty-four; "An act supplementary to the act, entitled 'An act for the limitation of actions,' passed February eighth, eighteen hundred and twenty-six; and "An act to amend the act, entitled 'An act for the limitation of actions,' passed February twenty-second, eighteen hundred and thirty; and all acts and parts of acts heretofore passed for the limitation of actions; be, and the same are hereby repealed: *Provided*, That all causes of action not heretofore barred, which subsisted or accrued during the time those acts were in force, shall be commenced within the times therein limited, and not after; and all such actions shall be barred after the expiration of the several times allowed for their commencement, according to the provisions of said acts, respectively, and their amendments.

Proviso, as to causes of action accruing under former acts

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

February 18, 1831.

AN ACT making certain instruments of writing negotiable.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all bonds, promissory notes, bills of exchange, foreign ^{What paper shall be negotiable} and inland, drawn for any sum or sums of money, certain and made payable to any person or order, or to any person or bearer, or to any person or assigns, shall be negotiable by indorsement thereon, so as absolutely to transfer and vest the property thereof, in each and every indorsee successively: but nothing in this section shall be construed to make negotiable any such bond, note or bill of exchange, drawn payable to any person or persons alone, and not drawn payable to order, bearer or assigns.

Sec. 2. That any indorsee, to whom any such bond, note or bill of exchange, made negotiable by the preceding section, is made payable by such indorsement or indorsements may, in his own name, institute and maintain an action on such bond, note or bill, for the recovery of the money due thereon, against the maker, drawer or obligor; or against the indorsee: having first used due diligence to obtain the money of the drawer, maker or obligor. ^{Indorsee may maintain suit in his own name}

Sec. 3. That if any such bond, note or bill of exchange, shall be indorsed after the day on which it is made payable; and the indorsee shall institute an action thereon, against the maker, drawer or obligor, the defendant shall be allowed to set up the same defence that he might have done, had the same action been instituted in the name, and for the use of the person to whom the said bond, note or bill, was originally made payable. ^{Defence to bill, &c. indorsed after day of payment}

Sec. 4. That if any such bond, note or bill of exchange, shall be indorsed on or before the day on which the same is made payable, and the indorsee shall institute an action thereon, the defendant may give in evidence at the trial, any money actually paid on said bond, note or bill of exchange, before the same was indorsed or assigned to the plaintiff, on proving that the plaintiff had notice of the said payment, before such indorsement was made and accepted. ^{Defence to bill, &c. indorsed before day of payment}

Sec. 5. That if any indorsee of any bond, note or bill of exchange, made negotiable by this act, on trial of any suit instituted thereon, against any indorser, shall prove a demand made of the maker, drawer or obligor, of such bond, note or bill of exchange, at the time the same became due, or within a reasonable time thereafter: it shall be adjudged, due diligence, under the second section of this act, unless by the express terms of the indorsement, the plaintiff was bound to prosecute the maker, drawer or obligor, or use other means to procure payment from the maker, drawer or obligor. ^{What shall be due diligence}

Sec. 6. That the act making certain instruments of writing negotiable, passed January twenty-fifth, eighteen hundred and ten, be, and the same is hereby repealed: *Provided*, Nothing in this act, shall be so construed, as to affect any suit now pending.

on any bond, note or bill of exchange, made negotiable by said act hereby repealed; nor to affect the right of any payee, obligee or indorsee, of any bond, note or bill of exchange, drawn or executed previous to the taking effect of this act.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

February 25, 1820.

AN ACT for the prevention of frauds and perjuries.

Deeds &c. made
in trust for
grantor, void

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all deeds of gifts and conveyances of goods and chattels, made in trust to the use of the person or persons making the same, shall be, and hereby are declared to be void and of no effect.

Gifts, grants, &c.
to defraud credi-
tors, void

Sec. 2. That every gift, grant or conveyance, of lands, tenements, hereditaments, rents, goods or chattels, and every bond, judgment or execution, made or obtained with intent to defraud creditors of their just and lawful debts or damages, or to defraud or to deceive the person or persons who shall purchase such lands, tenements, hereditaments, rents, goods or chattels, shall be deemed utterly void and of no effect.

Possession for
five years of
goods, &c., given
right, unless &c.

Sec. 3. That where any loan of goods and chattels shall be pretended to have been made to any person with whom (or those claiming under him) possession shall have remained for the space of five years, such goods and chattels shall be deemed the property of the person having had such possession, unless a reservation of the right of such goods and chattels shall have been made to the lender, in writing, and such writing shall have been recorded within six months from the time of making such loan, in the recorder's office for the county where one or both of the parties shall then have resided.

Freeholds or
terms for years
not to be as-
signed or grant-
ed without deed
or note

Sec. 4. That no leases, estates or interests, either of freehold or terms for years, or any uncertain interests of, in, or out of lands, tenements or hereditaments, shall at any time hereafter be assigned or granted, unless it be by deed or note, in writing signed by the party so assigning or granting the same, or their agents thereunto lawfully authorized, by writing, or by act and operation of law.

Persons not an-
swerable for a
promise to pay
debt of another,
or on marriage
agreement or
contract for sale
of lands, with-
out writing

Sec. 5. That no action shall be brought whereby to charge the defendant, upon any special promise, to answer for the debt, default or miscarriage of another person; or to charge any executor or administrator upon any special promise, to answer damages out of his own estate; or to charge any person upon any agreement made upon consideration of marriage, or upon any contract or sale of lands, tenements or hereditaments,

or any interest in, or concerning of them; or upon any agreement that is not to be performed within the space of one year from the making thereof; unless the agreement upon which such action shall be brought, or some memorandum or note thereof shall be in writing, and signed by the party to be charged therewith, or some other person thereunto by him or her lawfully authorized.

EDWARD TIFFIN,

Speaker of the House of Representatives.

DUNCAN McARTHUR,

Speaker of the Senate.

February 19, 1810.

AN ACT to regulate the fees of officers in civil and criminal cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That the fees and compensation of the several officers and persons herein named, shall be as follows, to wit:

SHERIFFS' FEES.

Sheriffs shall be allowed the following fees:

For the service of every writ or summons and return thereof, (subpoenas only excepted,) when only one defendant is named therein, thirty-five cents; *Sheriffs' fees*

For each additional defendant, fifteen cents;

For every bail bond, fifty cents;

For committing to prison, or discharging therefrom, or attending a person before a judge or court, thirty cents;

For serving a writ of possession, with the aid of county, two dollars;

For serving without aid, seventy five cents;

For executing a writ of inquiry, and returning the same with the inquisition, one dollar and twenty-five cents;

For the copy of any writ or process necessary to complete a service, for each hundred words, ten cents;

For serving and returning a subpoena, for each person named therein, ten cents;

For summoning a jury, to be allowed on each issue, including traveling fees, fifty cents;

For summoning a grand jury, to be paid by the county, three dollars;

Summoning a special jury, including traveling fees, two dollars;

Traveling fees upon all writs, precepts and subpoenas, to be computed from the place of return to the place of service, per mile, five cents;

Poundage on all moneys made on execution, decree, or sale of real estate, except as hereinafter provided, two per cent.

Service of a declaration in ejectment and return, the same fees as allowed for the service of a summons;

Making a deed of land sold on execution, decree, or order of court, to be paid by the purchaser, two dollars;

Serving a scire facias, and making return thereof, seventy-five cents;

Serving any person with an order of court, and making return thereof, thirty cents;

Mileage as in other cases:

For keeping and providing for a person in jail, per day, twenty-five cents;

For calling a jury, ten cents;

For opening court and calling each action, to be charged once each term, sixteen cents;

For calling each witness, four cents;

For bringing up a person on habeas corpus, seventy-five cents;

For summoning a jury on forcible entry and detainer, or forcible detainer, two dollars;

For serving a writ of restitution, seventy-five cents;

Mileage thereon as in other cases:

For serving a summons in forcible entry and detainer, or forcible detainer, thirty-five cents;

Mileage as in other cases:

For calling an inquest to appraise lands and tenements under the provisions of the act regulating judgments and executions, one dollar;

For all advertisements in a public newspaper, twelve and a half cents in addition to the price of printing;

For all written advertisements for the sale of property, either personal or real, twenty-five cents.

Sec. 2. That the clerks of the supreme court and court of common pleas, shall be allowed the following fees, in civil cases:

For filing precipe and issuing capias, attachment, execution, certiorari, supersedeas, summons, or writ of replevin, under seal, and entering the same, twenty-five cents;

Issuing writs of scire facias and venditioni exponas, under seal, for every hundred words, ten cents;

Issuing writs of partition and entering the same, twenty-five cents:

For entering the appearance of either party, personally or by attorney, to be charged but once, eight cents;

For entering sheriff's return on any writ, six cents;

Docketing each cause, to be charged but once, six cents;

Docketing appeal from justices, eight cents;

Filing declaration, plea, demurrer, or bill, or answer in chancery, each, six cents;

Filing every paper, exhibit, or necessary document in the cause, four cents;

Issuing subpoena in chancery, twenty-five cents;

Fees of the
clerks of sup.
court and com-
mon pleas in
civil cases

Dedimus potestatum, under seal, fifty cents.

Subpoena for witnesses, when there is but one person named therein, twelve and a half cents; and for every additional person, four cents;

The writ of venire for a jury, to be charged in each cause tried, twelve cents;

Receiving panel and swearing jury, twelve and a half cents;

Swearing each witness, four cents;

Swearing constable, four cents;

Entering claim of such witness for his or her attendance, six cents;

Giving order therefor to each witness, eight cents;

Entering judgment, ten cents;

Recording general verdict, ten cents;

Special verdict, for every hundred words, ten cents;

For taking special bail, twelve cents;

Taking and entering recognizance, twenty-five cents;

Issuing a bail piece under seal, fifty cents;

For entering every special rule, six cents;

Entering every continuance, discontinuance, or retraxit, ten cents;

Entering a rule of reference, twelve cents;

Copy thereof, under seal, twenty-five cents;

Attending to the striking of a special jury, and furnishing a panel thereof to each party, fifty cents;

Issuing a venire facias for a special jury, twenty-five cents;

Entering allowance of, and issuing a writ of habeas corpus, under seal, fifty cents;

Each certificate to which the seal of the court is required, and not herein provided for, fifty-cents;

For each writ or process under seal, not herein provided for, twenty-five cents;

Entering confession of judgment or consent, rule and plea, ten cents;

Entering satisfaction of judgment on record, twelve and a half cents;

Making up a competent record of the process, proceedings, and judgment in each cause, for each hundred words such record may contain, ten cents;

For making out copies of process, pleadings, records, or any proceedings in a cause, with the seal annexed, when required by either of the parties or by law, for each sheet of an hundred words, ten cents;

Entering notice of appeal to supreme court, ten cents;

Taking bond on appeal, certiorari, or writ of error, twenty-five cents;

Entering allowance of writ of error, certiorari, or habeas corpus, ten cents;

Entering every decree in chancery, for each hundred words, ten cents;

For drawing cost bill, after final judgment or decree, thirty-five cents;

For entering an order to advertise, twenty-five cents.

Fees of the clerk
of common pleas
in administration
and probate
cases

Sec. 3. That the clerks of the courts of common pleas shall be allowed the following fees in administration and probate cases:

For the probate of a will or testament, and entry thereof, thirty three cents;

Issuing letters testamentary under the seal of the court, one dollar;

Administering an oath to executors or administrator-, and taking bond in each case, forty cents;

Recording a will or inventory, final settlement of executors, administrators or guardians, for every hundred words, ten cents;

Making out copies of wills, inventories or rules of court ordered to be furnished executors, administrators or guardians, for every hundred words, ten cents;

Entering appointment of administrators or appraisers of property, twelve and a half cents;

Copy of order to appraisers, twelve and a half cents;

Taking bond of any guardian appointed for minors or insane persons, thirty-three cents;

Letters of administration, or a copy thereof, under the seal of the court, one dollar;

Certificate, or issuing letters of guardianship, or copy thereof, under seal of the court, fifty cents;

For filing an account current and vouchers of an executor, administrator or guardian, for settlement, and entering the same on the minutes of the court, twenty-five cents;

Issuing citation to administrators, executors or guardians, thirty-five cents: *Provided*, In all cases where there are several minors who may have chosen the same person as guardian, or for whom the same person may have been appointed as guardian at the same time, the clerk shall not be entitled to, or receive any more or greater fees, for taking bond, or giving certificate, or issuing letters of guardianship under seal of the court, than if there should be one ward only.

Fees of the
clerks of common
pleas and
supreme court in
criminal cases

Sec. 4. That the clerks of the court of common pleas and supreme court, shall be allowed the following fees in criminal cases:

For issuing *capias* or other process on indictment, twenty-five cents;

Entering defendant's appearance or plea, six cents;

Venire for jury, twenty-five cents;

Receiving panel and swearing jury, twelve and a half cents;

And for all other services, the same fees as are allowed in civil cases for similar services.

Recorder's fees

Sec. 5. That recorders shall receive the following fees:

For recording a mortgage, deed of conveyance, letter of

attorney, or other instrument of writing, for every hundred words, ten cents, to be paid to the recorder on the reception of such deed, mortgage, letter of attorney, or other instrument of writing;

For all copies, for every hundred words, ten cents;

For every search where no copy is required, twelve and a half cents.

Sec. 6. That coroners shall be allowed the following fees: Fees of coroners

For view of a dead body, three dollars;

For drawing all necessary writings, and return thereof, for every hundred words, ten cents;

For traveling each mile to the place of view, ten cents;

For issuing a venire for a jury, twenty-five cents; and when performing the duties of sheriff, the same fees as are allowed to sheriffs for similar services.

Sec. 7. That justices of the peace shall be allowed to receive the following fees: Fees of justices of the peace

For a capias or summons, twelve and a half cents;

For a warrant in criminal cases, twenty-five cents;

For taking a recognizance of bail, twenty-five cents;

For committing to jail, twenty-five cents;

For every subpoena for one person, twelve and a half cents;

For each person in addition, four cents;

For entering judgment on trial, twenty-five cents;

For entering judgment on confession or default, twelve and a half cents;

For issuing execution, twenty-five cents;

For a certified copy of proceedings on appeal, certiorari or otherwise, thirty-one and a fourth cents;

For every continuance or adjournment, at the request of either party, ten cents;

For entering rule of reference, or a copy thereof, each, ten cents;

For swearing witnesses, jurors or arbitrators, each four cents;

For issuing writs of attachment, twenty-five cents;

For scire facias, twenty-five cents;

For entering a discontinuance or satisfaction, ten cents;

For the acknowledgment of a deed, or other instrument of writing, with a certificate thereon, twenty-five cents;

For a venire for a jury, twenty-five cents;

For a writ of restitution, twenty-five cents;

For taking affidavits, each, twenty-five cents;

For taking and certifying proof of any account or claim against the estates of testators or intestates, twelve and a half cents; and fees for such probate shall be allowed by the court on the final settlement of the accounts of any executor or administrator;

For every search warrant, twenty-five cents;

For marrying and making return thereof, one dollar and fifty cents.

Fees of constables

Sec. 8. That constables shall receive the following fees:

For serving every summons or other writ, and making return thereof, for each person named therein, ten cents;

For a copy of a summons left at the place of abode, twelve and a half cents;

For serving execution on body or goods, twenty cents;

For summoning a jury on a dead body, including mileage, seventy-five cents;

For commitment to prison, twenty-five cents;

For all moneys made on execution, four per cent.;

For every day's attendance upon the court, by order of the court, seventy-five cents; to be paid out of the county treasury, upon the certificate of the clerk;

For every day's attendance on the grand jury, seventy-five cents:

And when any sheriff, coroner or constable has any process to serve, or duty to perform, and has to travel, he shall be allowed five cents per mile from the place of service to the place of return, (except where otherwise provided for;) and when two or more persons are named in any such process, mileage shall be computed from the most distant place of service to the place of return, unless such persons reside in opposite or different directions from such place of return.

Witnesses' fees

Sec. 9. That witnesses shall be allowed the following fees:

For going to, attending at, and returning from court, under a subpoena, per day, to be paid by the party at whose instance he is summoned (on demand,) and taxed in the bill of costs, fifty cents;

For attending a coroner's inquest, fifty cents per day; to be paid out of the county treasury.

Fees of officers and commissioners in partition of real estate

Sec. 10. The following fees shall be allowed for services under the act for the partition of real estate, viz:

To each commissioner employed in making partition, and in going and returning, for each day, one dollar;

And in cases where the land lies in two or more counties, one dollar and fifty cents:

To the surveyor, each day employed in making such survey, two dollars:

To each marker and chain carrier, for each day employed, seventy-five cents:

To the sheriff, for executing a writ of partition, one dollar;

Traveling fees as in other cases;

For selling real estate under an order of court, when the same will not bear partition, one per cent. on the amount of such sale.

Fees of officers for putting up or publishing advertisements

Sec. 11. That in all cases in law, where an officer in the due execution of his office, shall be required to write or set up an advertisement, such officer shall be allowed for every such advertisement twenty-five cents; and if such advertisement be required to be published in a newspaper, the officer shall be

allowed twelve and a half cents, in addition to the price thereof, to be taxed in the bill of costs: *Provided*, Nothing herein contained shall be so construed as to allow constables more than twenty-five cents for advertising the sale of property taken in execution.

Sec. 12. That all appraisers appointed by the court to appraise the real or personal property of deceased persons, shall be allowed the sum of one dollar per day; to be paid out of the estate of such deceased person. Fees for appraising property of deceased persons

Sec. 13. That each and every associate judge of the court of common pleas in this State, shall receive for his services two dollars and fifty cents for each day he shall attend courts, including the time employed in traveling to, and returning from courts; which attendance shall be certified by the clerk, and paid out of the treasury of the proper county, upon the order of the auditor of said county. Fees of associate judges

Sec. 14. That each county commissioner shall be allowed two dollars per day for his services, to be paid out of the county treasury, upon the order of the county auditor. Fees of county commissioners

Sec. 15. That each grand and petit juror shall be allowed the sum of one dollar per day, for each and every day he may serve; and if not a talesman, five cents per mile from his place of residence to the county seat: and the compensation of such juror shall be certified by the clerk of the court: and the compensation so certified, shall be paid by the county treasurer, on the order of the county auditor: *Provided*, That nothing in this act contained shall be construed to apply to a struck jury: and to jurors on inquest holden by coroners or justices, each one dollar, to be paid out of the county treasury, on the order of the county auditor; who shall be furnished by the coroner with the names of the jurors. Fees of grand and petit jurors
Provided, as to struck jury, and jurors in coroner's inquest

Sec. 16. That each talesman serving as a petit juror in the court of common pleas, or supreme court, shall be entitled to the sum of fifty cents for each jury trial on which he may serve: *Provided*, The trial does not detain such talesman more than one day; but in case, he is detained more than one day on such trial, he shall receive the same amount per day as regular summoned jurors are entitled to receive; whose account shall be audited and paid in the manner prescribed in the preceding section. Fees of talesmen

Sec. 17. That there shall be paid by the party in whose favor a verdict may be rendered, and in case of a non-suit, by the party calling said jury, and taxed in the bill of costs, in any civil cause tried in the court of common pleas, or supreme court, the sum of six dollars; which sum shall be paid on the rendition of the verdict or judgment of non-suit as aforesaid, and before the same is recorded, into the hands of the sheriff of the proper county, and by him paid over to the county treasurer, under the directions of the court. Party in whose favor verdict is rendered, shall pay sheriff six dollars, which sheriff shall pay into county treasury

Sec. 18. That when any sheriff, or other officer discharging the duties of sheriff, shall receive from the court of common

Fees of sheriff

for serving a ca. pleas or supreme court, of any other county than that in which
 m. issued from such sheriff or other officer resides, a writ of capias ad satisfaci-
 another county endum, and it shall be necessary for such officer to convey the
 defendant or defendants to the jail of the county from whence
 such writ may have been issued; such sheriff or other officer shall
 be entitled to receive, on return of said writ, that the body or
 bodies are committed to the jail of the proper county, or dis-
 charged from custody by order of the party, his or their agent
 or attorney, eight cents per mile going to, and six cents per mile
 returning from said jail: to be computed from the place of ser-
 vice to the place of return, by the most usual rout; and one dol-
 lar and twenty-five cents for every twenty-five miles for trans-
 porting and subsisting each defendant as aforesaid.

Clerk to pay
 such fees to
 sheriff, and may
 refuse to issue
 till fees are de-
 posited

Sec. 19. That the clerk of any court to whom a writ shall
 be returned as aforesaid, shall pay to such sheriff or other offi-
 cer fees agreeably to the provisions of the preceding section;
 and it shall be lawful for any clerk to refuse to issue such writ
 until the party, his agent or attorney, shall deposit funds suffi-
 cient to enable said clerk to do the same: which fees and ex-
 penses shall be taxed on the execution, and when collected of
 said defendant or defendants, shall be for the use of such party
 who may have advanced the same.

Indorsement on
 such writ

Sec. 20. That it shall be the duty of each and every clerk,
 when he issues such writ to a sheriff, or other officer discharging
 the duties of sheriff in any other county within this State, to
 indorse on the back of said writ, these words: "funds are de-
 posited to pay the sheriff on this writ," and subscribe his name
 thereto; and no sheriff or other officer shall be bound to execute
 and return any writ of capias ad satisfaciendum, which shall not
 be thus indorsed.

In criminal cases
 jury fee to be
 taxed against
 convict, and if
 collected, to be
 paid into county
 treasury

Sec. 21. That in all criminal cases where a jury may be
 called to try the issue joined, and the defendant or defendants
 shall be convicted by the judgment or sentence of the court be-
 fore whom the same may be tried, there shall be taxed in the bill
 of costs, the sum of six dollars as a jury fee; and judgment shall
 be rendered therefor against such defendant, or defendants;
 which sum, when collected by the clerk of said court, [or] the
 sheriff to whom executions shall have been issued, shall be paid
 over to the county treasurer, as provided by the preceding sec-
 tion of this act.

County auditor's
 fees

Sec. 22. That each county auditor shall receive for his ser-
 vices, the following fees and compensation:

For making out the duplicates of State, county, school, town-
 ship, and road tax, and the lists of delinquent tax, for every sheet
 of one hundred words, provided, that three figures shall be coun-
 ted as one word, ten cents;

Making out copies of duplicates required by law, for each
 one hundred words, to be computed as before, eight cents;

Recording proceedings of commissioners or other record, and

entering the accounts necessary to be made or kept in his office, for every one hundred words, ten cents;

For every order on the county treasury, six and one-fourth cents;

For every entry and transfer of land for taxation, twelve and a half cents, to be paid by the person requesting such transfer;

For making a deed for any land or town lot sold for taxes, one dollar, to be paid by the person receiving such deed:

And for all other services required of said auditor by law, any sum not exceeding fifty dollars per annum; which, together with all other fees allowed said auditor, and not otherwise provided for by this act, shall be paid out of the county treasury, on the order of the county commissioners, and not otherwise: *Provided*, Said commissioners shall in no case give an order to said auditor for fees, but upon an account made out and sworn to by said auditor, which shall be filed in the office of the treasurer of said county.

To be paid on the order of commissioners

Auditor's account to be sworn to

Sec. 23. That the court of common pleas in each county, shall make an allowance of not more than sixty dollars per annum for their clerk and sheriff, each, for services where the State fails, or the defendant proves insolvent, and other services not particularly provided for; and the sheriff or jailer shall also receive for subsisting each prisoner in a criminal case, the same daily allowance as in civil cases, to be paid out of the county treasury, on the order of the county auditor, when the same cannot be recovered from such prisoner: and moreover, the clerk shall receive a reasonable allowance for blank books and stationery, to be paid as aforesaid.

Court of C. P. to make an annual allowance to clerk and sheriff

Sec. 24. That each and every officer, whose fees are herein ascertained, limited and appointed, shall, and they are hereby required, to make a fair table of their fees respectively, according to this act, and to publish and set up the same in their respective offices within three months after any such officer shall have been elected or appointed, in some conspicuous place, for the inspection of all persons who have business in said office, on pain of forfeiting for each day the same shall be missing through said officer's neglect, the sum of five dollars; which penalty may be recovered by indictment, for the use of the county where the offence shall have been committed.

Officers to set up table of fees in their offices

Sec. 25. That it shall, and may be lawful, for any person to refuse payment of fees to any officer who will not make out a bill of particulars, signed by him if required; and also, a receipt or discharge signed by him for fees paid: and the bill of fees of the officers herein named, shall be subject to examination and correction by the several courts.

Payment of fees may be refused until bill of particulars be made out, &c.

Sec. 26. That if any clerk of any of the courts of this State shall fail to complete a full record in every case, within six months after final judgment of the proper court therein, every such clerk so failing, shall be removed from office by the court.

Clerk failing to complete record in six months shall be removed

of which he is a clerk; and it shall be the duty of the court strictly to enforce the provisions of this section.

No ministerial
officer to receive
fees unless items
be returned on
process

Sec. 27. That no sheriff, coroner or constable, shall be entitled to receive, either on mesne or final process, any fees provided for in this act, unless he shall return upon the process upon which any charge shall be made, the particular items of such charge.

Docket fees

Sec. 28. That in all suits or actions commenced in the supreme court or court of common pleas, the person recovering judgment shall be entitled to the following docket fee, to wit: In each and every case where the suit is settled and ended previous to the issue being joined, and after the declaration is filed, two dollars and fifty cents; after trial, five dollars; which docket fee shall be taxed in the bill of costs, and be paid to the attorney of record for the successful party; which fee shall be accounted for by the said attorney on settlement with his client: but no docket fee shall be allowed and taxed in any suit determined previous to the filing of the declaration, nor when a suit is removed by certiorari, or appeal, when no trial is had by a jury or by the court before whom the same is removed: and in all cases where the laws of this State have left to the court to determine who shall pay the costs, the docket fee shall be taxed as the said court may order.

Sheriff or other
officer returning
execution by
mail, how travel-
ing fees shall
be computed

Sec. 29. That whenever any sheriff or coroner, as the case may be, shall hereafter receive any writ of execution from the clerk of the supreme court or court of common pleas, of any other county than that in which said sheriff or coroner resides, and shall return said execution by mail or private conveyance to the office of the clerk from whence it issued; such sheriff or coroner shall receive no greater traveling fees than five cents per mile from the residence of said sheriff to the place of service, and from thence to the nearest and most convenient post office.

Sheriff's fees un-
der act relating
to dower

Sec. 30. That sheriffs shall be allowed the following fees for services rendered, under the provisions of the act, entitled "An act relating to dower:" for summoning and swearing the men specified in the twelfth section of said act, one dollar; traveling fees, to be computed from the place of return of his proceedings, to the place where the land lies in which the said dower is to be assigned, five cents per mile.

Fees of commis-
sioners assigning
dower

Sec. 31. That the men summoned by the sheriff as aforesaid, shall receive each twenty-five cents per day for their services; and all costs accruing on the assignment of dower, shall be taxed by the court and judgment rendered therefor, the one third of which shall be paid by the petitioner, and the other two thirds by the heirs, devisees or other persons, claiming the remaining two thirds of said land.

Sheriff's and
coroner's fees

Sec. 32. That in all cases where any sheriff or coroner, having levied any execution, and whose term of office has expired, shall have returned such execution unsatisfied, or shall have

delivered the same to his successor in office before the money could be made thereon, it shall be lawful for the supreme court or court of common pleas of the county where such execution shall have issued, to order the poundage and fees taxed on any such execution, to be distributed between any such sheriff or coroner and his successor, who shall have made the money thereon, in such manner and proportions as they may deem just and equitable.

Sec. 33. That the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases," passed February 19th, 1824; and "An act to amend an act, entitled 'An act to regulate the fees of civil officers in civil and criminal cases,'" passed January 30th, 1827; and "An act to amend the act, entitled 'An act to regulate the fees of civil officers in civil and criminal cases,'" passed December 31st, 1827; and "An act to provide for the equitable distribution of the fees of sheriffs and coroners, in certain cases;" be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 5, 1831.

AN ACT defining the duties of executors and administrators.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any person shall die intestate, leaving real or personal property within this State, the court of common pleas in the county whereip the intestate had his or her last place of residence, shall, on application, grant letters of administration to the widow, if any, or to the person nearest of kin to the intestate, who will accept; or if the widow, or no one of kin will accept, then, to any creditor of the intestate who may apply for the same: but if no application be made to the court, and they be well informed that the estate of the deceased exceeds the value of one hundred dollars, the court may, at their discretion, forthwith appoint an administrator to said estate, or cause the next of kin, if in the county and known to the court, and if not, then the person in whose custody the goods and chattels of such estate may be, to come before them and show cause why letters of administration should not be granted: and if such person do not appear at the next term of the said court, and show cause as aforesaid, the court shall appoint one or more proper persons, and grant to them letters of administration.

Letters shall direct administrators to have goods appraised, &c.

Sec. 2. That the letters of administration shall empower and direct the administrator to have all the goods and chattels of the deceased, so far as shall come within his or her knowledge, appraised by three householders of the county, under oath or affirmation, who shall be appointed by the court, and named in said letters; which householders, having well and truly appraised all goods and chattels of the deceased, which shall be presented to them, a true and accurate inventory of such appraisement, signed by the appraisers, and also a true and accurate statement of all debts which are due and owing to the estate, so far as known to the administrator, shall be by him returned to the clerk's office of said court, within three months.

What property widow may retain

Appraisers shall allow widow and children one year's support

Sec. 3. That if said deceased shall have left a widow, she shall be entitled to retain all the wearing apparel of herself and that of her deceased husband, and such other articles of property as are by law exempt from execution, without being obliged to account for them as a part of her husband's estate: and said appraisers shall, moreover, allow such widow and children, (if any there be,) of said deceased, under the age of fifteen years, or if there be no widow, then to such children, sufficient provisions or other property, for their support twelve months from the death of such intestate; which shall not be returned in such inventory, but in a separate schedule, which shall also be signed by said appraisers.

When personal property is insufficient for their support, appraisers may allow further sum; which, if approved by the court, shall be a valid claim against the estate, and have preference &c.

Sec. 4. That when there is no personal property, or an insufficient amount thereof for the support of the widow and children for twelve months, or for the support of such children, agreeably to the provisions of the third section of this act, the said appraisers shall allow, for such support, the said personal property, if any, returning the same in a separate schedule as above specified; and shall certify on said schedule, or otherwise, what sum or further sum ought to be allowed for the support of such widow and children, (or child or children, if there be no widow,) for said twelve months; which sum or allowance, if approved by the court to which such schedule or certificate is returned, or any other sum which the said court shall allow for such support, shall be considered and taken to be a valid claim against said estate, and shall be paid by the executor or administrator, in preference to any other claim against said estate, except the funeral expenses, those of the last sickness of the testator or intestate, and the costs of administration.

Notice to creditors to be given by publication

Administrator to settle in 18 months
But court may extend time not

Sec. 5. That the administrators, on receiving such letters, shall, by advertisement inserted and continued four weeks successively, in one of the public newspapers printed in this State, notify the creditors of such estate to exhibit their accounts, legally proven, within one year: and such administrators shall adjust and settle up the accounts within eighteen months from the date of such letters, unless the court shall extend the time; which they are hereby empowered to do, on good cause shown,

to any time not exceeding five years from the date of such letters: *Provided*, That the office of executor or administrator shall not cease or expire with the time allowed by law or the court for the settlement of the estate of the testator or intestate; but such executor or administrator, unless he shall have resigned or be removed by the court, shall in all things continue in the exercise of his office until the estate of the testator or intestate is fully settled and closed.

exceeding five years

Office of executor or administrator not to expire with the time for settlement

Sec. 6. That executors or administrators, with the will annexed, shall be governed by the provisions of this act, so far as relates to goods and chattels of the deceased, not otherwise disposed of in the will: *Provided*, That the court, when they grant probate of any will, shall cause the executor or executors named in said will, to give bond and security in the same manner as is required of administrators by this act; and in case of their refusal so that no one of the executors named in said will, is willing to give the security required, the court shall thereupon grant letters of administration with the will annexed, as if no executor had been named in said will.

Executors and administrators with the will annexed to be governed by this act

Executors to give bond, or failing, administrator with the will annexed appointed

Sec. 7. That the court, when they grant letters of administration, shall cause the administrator to take an oath or affirmation, to discharge with fidelity the duties of an administrator according to law; and shall likewise require him to give bond, with two or more sufficient securities, conditioned for the faithful performance of the duties required of him: and if it shall afterwards appear to the court, that any last will and testament was made by the deceased, and the executor therein named, shall prove the same agreeably to law, the court shall require the administrator to deliver such letters of administration, together with his proceedings thereon, to the court; and on delivery thereof to the court, he shall be released from his bond; but if such administrator, after being notified as aforesaid, to come forward and deliver up his letters of administration, shall refuse or neglect so to do, then the court, by decree entered of record, shall stay all further proceedings on such letters of administration, and shall likewise oblige such administrator to give over all such assets, moneys, papers and accounts as may be in his possession, belonging to such estate, into the hands of the executor appointed under the will: and the court may allow, in these cases, to such administrator, on the delivery of his papers, such compensation for his services, while acting under the letters of administration, as may appear to them just and reasonable.

Administrator to take an oath and give bond

If it shall afterwards appear that a will was made by deceased, how to proceed

Sec. 8. That during any contest about a will, or during the infancy or absence out of the State of any executor, or until a will which once existed, but is destroyed or secreted, shall be produced or established, or for any other good cause, the court may appoint a proper person as administrator, who shall act until the disability, or other obstacle as aforesaid, shall be removed; and the administrator so appointed, shall in all respects

In what cases temporary administration may be granted

proceed and govern himself as is required of other administrators appointed under this act, with or without the will annexed, (as the case may be,) except that the oath and bond required of them to be taken and given, shall be varied, as the circumstances may require.

Bond of administrator, etc., to be payable to the State of Ohio
 Sec. 9. That the bond of administration, or the bond given by the executor, shall be drawn payable to the State of Ohio, and filed in the clerk's office; and suit may be instituted thereon, as prescribed in the act, entitled "An act pointing out the manner in which suits may be prosecuted on the bonds of executors, administrators and officers."

Personal property not devised, to be sold at public sale
 Sec. 10. That the executor or administrator shall, in all cases, sell the whole of the personal property belonging to said estate, (not devised or bequeathed, or retained, or set off to said widow and children for support, as specified in this act,) at public vendue, after at least fifteen days' notice having been given in some newspaper in general circulation throughout the county, or by advertisement set up in at least five public places in the county where such sale is to take place: *Provided*, That the widow may keep such part of said property as she may desire, at the valuation made by the appraisers; she securing the payment thereof to the executor or administrator, as other purchasers.

Widow may keep at the appraised value
 Sec. 11. That every executor or administrator, making sale of goods and chattels of deceased persons, by virtue of this act, shall return a true inventory of the goods so sold, and the price for which they were sold, and names of the persons to whom they were sold, including the property taken by the widow (if any) at the appraisement, to the office of the clerk of the court of common pleas for said county, within three months after such sale is made.

Inventory of goods sold, and of those kept by widow, to be returned to clerk's office in three months
 Sec. 12. That every executor and administrator shall, within the time allowed for settling the accounts of the estate in his hands, present to the court of common pleas a fair written statement or account current, in which he shall charge himself with the whole amount of the estate, according to the inventories of sale and appraisement, including all the debts due the estate, and moneys on hand at the death of the deceased; and credit himself with all moneys lawfully expended in settling said estate, either by the payment of debts or otherwise, exhibiting with said account the receipts and vouchers for all moneys paid out; which account and vouchers shall be inspected by the court: and the court shall, upon such examination, allow such administrator a credit for all debts with which he had charged himself, and which could not be collected; and shall allow such administrator a credit for any sum not exceeding six per cent. on the amount by him settled, and such other sums for extra expenses and trouble as they may deem reasonable.

Administrator, etc., shall present to the court an account current, and exhibit its vouchers
 Sec. 13. That after allowing the said administrator all just credits on his account, the court shall strike the balance of

Court to strike the balance due widow and heirs

and upon such account, and determine what sum remains in the hands of said administrator, due to the widow, (if any) and heirs of the deceased: and said account, when approved and settled, shall be recorded at length by the clerk of said court; and said receipts and vouchers, or duplicates thereof, shall be filed and preserved in the office of said clerk: and said administrator shall, on demand, after such settlement, pay to the widow, (if any) and heirs of such decedent, if of full age, and to their guardians respectively, if minors, the amount of money due them severally.

Sec. 14. That when any executor or administrator, who has, or hereafter shall have made a final settlement of his accounts with the court, by which the balance in his hands shall be ascertained distributable to the widow and heirs, or residuary legatees of the testator or intestate, and shall have paid over to the widow, heirs or legatees, or to the guardian of any minor heir or legatee, or to any of them, his, her or their distributive share; such executor or administrator may, at his option, file in court an abstract of such payments, together with the receipts of such widow, heirs, legatees and guardians.

Executor, &c., after settlement, may file in court an abstract of payment to widow, heirs, &c., and his vouchers

Sec. 15. That when such abstract and receipts shall be filed, it shall be the duty of the clerk to give notice within thirty days after the rising of the court, by advertisement, published for three weeks successively, in some newspaper of general circulation in the county, that such receipts are filed.

Such abstract, etc., being filed, clerk shall give notice thereof by publication

Sec. 16. That at the next term of the court after such notice given, the receipts so filed shall be examined by the court, and if no objection be made thereto, and none appear, they shall be allowed and entered of record; and said executors and administrators shall, by such allowance, be discharged from so much of the sum found by such settlement with the court as aforesaid, to be in the hands of said executor or administrator, as the persons whose receipts are so allowed, as in this section provided, are entitled to: *Provided*, That the court may, at any time, on motion of any person interested, within five years after such allowance, set aside and vacate the same, for good cause shown.

The court at the next term shall examine such receipts, and if allowed, they shall be recorded; and the executor, &c., shall be discharged pro tanto

Sec. 17. That all costs and fees accruing under the three preceding sections of this act, shall be paid by the executor or administrator, who shall file the abstract and receipts specified in said sections; and said executors and administrators shall not be entitled to retain the same out of the estate of his testator or intestate.

Costs under the three preceding sections not chargeable to the estate of decedent

Sec. 18. That the court of common pleas shall have power, by citation and attachment, to compel any administrator or executor to present his account for final settlement, at any time after the expiration of eighteen months from the date of the letters testamentary or administration, or after the further time allowed by said court for such settlement.

Court may compel settlement by citation and attachment

Sec. 19. That when a citation shall issue against, and be

Judgment may be rendered against executor, or, for the costs of citation served upon an executor or administrator, to show cause why settlement has not been made of his or her account, as such executor or administrator, and he or she shall neglect or refuse to appear at the term of the court to which such citation is returnable, or, having appeared, shall fail to show cause, to the satisfaction of the court, why settlement has not been made, it shall be competent for such court to render judgment against such executor or administrator for the costs which may have accrued upon such citation.

Account of executor, etc., to be continued one term. Sec. 20. That every account presented to the court by any executor or administrator for settlement, shall be continued one term, subject to the examination of all persons interested; and any person interested, may file written exceptions to said account, or any item thereof: and immediately after the close of each term of the court of common pleas within this State, it shall be the duty of the clerk of such court forthwith to give notice by advertisement in some newspaper, if any there be in such county, and if not, by advertisement set up on the door of the court house of such county, of the several executors, administrators or guardians, who may have filed their accounts for settlement: the costs of which notice shall be equally charged to such executors, administrators or guardians, and allowed in their final settlement.

Notice of the filing of accounts to be given by clerk, and how

Account, with exceptions, may be referred to special commissioner. Sec. 21. That when exceptions shall have been filed to any account current, or any item thereof, the court may, if they deem it expedient or necessary, refer such account with the exceptions thereto, to a special commissioner, according to the usages of courts of chancery.

Court may receive the resignation of an executor or administrator, and make further appointment. Sec. 22. That the court issuing letters testamentary, or appointing any administrator, may, for good cause shown in the opinion of the court, receive the resignation of such executor or administrator, and proceed to appoint an administrator with the will annexed, or an administrator de bonis non, as the case may be: *Provided*. The bond given by the executor or administrator making such resignation, shall not be thereby cancelled; but shall remain in full force and virtue in relation to all acts done, or liabilities incurred, by such executor or administrator, previous to such resignation, and as a security for faithfully paying over, and delivering up to the person or persons entitled thereto, all money, papers and property belonging to the estate of the deceased, and in the hands of such executor or administrator at the time of such resignation.

Executor or administrator may be removed. Sec. 23. That if any executor or administrator shall neglect or refuse to comply with the duties enjoined on him by this act, or shall waste the estate of the testator, or intestate, it shall be lawful for the court granting letters of administration, testamentary, or certificate of probate, upon complaint made by any person interested, to remove such executor or administrator, upon good cause shown, and proceed to appoint

others in the manner pointed out by this act, as near as the nature of the case will admit.

Sec. 24. That when the security, in any bond given by an administrator or executor, shall discover or believe that such executor or administrator is wasting or mismanaging the estate, whereby the said security may become liable to loss or damage, the court, upon application of such security in writing, and good cause shown, shall order every such executor or administrator to render an account of his administration of the estate, or executing the will, to said court, and to give a separate security to his or her surety, indemnifying such surety from all loss or damages by reason of the bond of administration, or bond given by such executor; and on neglect or refusal of such executor or administrator to give such bond of indemnity, the said court may revoke the letters testamentary, or letters of administration, and grant others, as if no such letters had been issued.

The securities of executors, etc., may make complaint, and obtain indemnity, etc.

Sec. 25. That when any executor shall resign or be removed, and an administrator, with the will annexed, appointed, and when any administrator shall resign or be removed, and another appointed in his stead, under the provisions of this act, such new appointed administrator shall be authorized immediately to commence an action on the case, against such prior executor or administrator, and hold him to bail; and in such action to recover the amount of moneys, assets, rents, issues and profits received by such removed executor or administrator, and not applied according to law, as well as all damages done or committed by such executor or administrator, in respect to the estate in his or her hands.

Executor or administrator removed or having resigned, may be sued by new administrator.

Sec. 26. That if a testator or intestate, shall die after the first day of March, all the emblements of his lands, which shall be severed before the thirty-first day of December following, shall be assets in the hands of the executor or administrator; but all such emblements growing on the lands on said first day of March, or at the time of the death of the testator or intestate, if that event happen after the thirty-first day of December, and before the first day of March, shall pass with the lands to the heirs, devisee, reversioner or remainder-man, subject, nevertheless, to the debts of the testator or intestate, in case the estate should be insolvent.

When emblements shall be assets, and when not.

Sec. 27. That hereafter no executor or executors, administrator or administrators, shall be made liable for more than the amount of assets which have come, or which may come into his, her or their hands to be administered, on account of having failed to plead or make defence, or on account of any plea or pleas which he, she or they, may hereafter plead to any suit or action whatever, which may hereafter be brought or prosecuted against him, her or them, or either of them; but the judgment of the court in all such cases which shall be de bonis testatoris, shall only render such executor or executors, administrator or

Executor or administrator not liable beyond the amount of assets.

administrators, liable for the amount of the assets in his, her or their hands, unadministered.

Widow's portion
of personal
estate

Sec. 28. That when the deceased shall not have left any legitimate child, heir of his body, the widow shall be entitled to the whole residue of the personal property, after the debts, funeral charges and other incidental expenses shall have been paid: that when he shall have left such legitimate child, heir as aforesaid, the widow shall be entitled to the one half of such residue, if such residue do not exceed four hundred dollars; and if it exceeds that sum, she shall be entitled to the half of the first four hundred dollars, and one third part of all the remainder; which shall be paid to her by the administrator, in a reasonable time after the amount of such residue is ascertained.

Court may di-
rect executor or
administrator to
sell real estate
when necessary
for the payment
of debts

Sec. 29. That if, on return made to the court, it shall appear to their satisfaction, that after deducting the amount of property set off to the widow and children, or to the children of said deceased, as provided for in the third and fourth sections of this act, the expenses of the last sickness, the funeral charges and the costs of administration, there is not personal property sufficient to pay all the demands against said estate, they shall direct the executor or administrator to sell so much of the real estate, situate in any county or counties within this State, as shall be sufficient to discharge all such demands, after the money arising on the sales of personal property has been applied thereto: and if it shall appear to the court that said estate will be insolvent, they shall direct the executor or administrator to sell the whole of the real estate of such testator or

Dower therein to
be assigned

intestate, after assigning to the widow, if any, her dower therein, including the remainder after such estate of dower shall have been determined, and shall direct the executor or administrator to pay over the proceeds of said estate in the following manner; that is to say: the funeral expenses, those of the last sickness of the testator or intestate, the costs of administration, together with the amount set off to the widow and children, or to the children of the decedent, for one year's support, shall be first paid; secondly, mortgages, and all judgments rendered against said testator or intestate, according to their respective priorities of lien, so far as the same operated as a lien on the estate of the decedent, at the time of his or her death, the amount of which shall be determined by the court, with reference to the proceeds in the hands of such executor or administrator, or arising from the sale of the lands, bound by such mortgages or judgments; after which it shall be the duty of the executor or administrator to distribute the residue of the assets, if any, among the remaining creditors of said deceased, in proportion to the amount of their claims against said estate; the dividend or amount to be paid on the dollar, to be determined by the court.

Order of paying
out the proceeds
of an insolvent
estate

Sec. 30. That in case the estate is insolvent, the executor

or administrator shall not be made liable for any claims against Executor &c. not said estate, which shall be presented after such proportion or dividend shall have been determined: *Provided*, The same dividend made shall not be made until after eighteen months shall have expired from the granting his letters testamentary or letters of administration: and in no case shall costs be recovered in any suit commenced against any executor or executors, administrator or administrators, within eighteen months from the date of such letters, or the further time allowed by the court for the settlement of the estate of the testator or intestate; nor shall any execution be issued on a judgment rendered in consequence of the commencement of such suit, or on any judgment rendered prior to the death of the testator or intestate, within the time aforesaid; nor shall any judgment creditor receive any other or greater proportion of his demand against the estate, than the other creditors who may not have procured judgment in their favor, except those who may have procured judgments prior to the death of such testator or intestate, and which operated as a lien on the estate of said deceased, at the time of his or her death: *Provided*, That in any action upon a demand against the decedent sounding in contract, which shall be commenced against such executor or executors, administrator or administrators, after the lapse of one year from the probate of the will, or the grant of administration, which shall have been legally authenticated and presented to the executor or executors, administrator or administrators, for allowance, at least ten days before the commencement of such suit, and by him, her or them, rejected, the plaintiff or plaintiffs shall be entitled to recover costs, if he, she or they shall recover, upon such demand, an amount equal to that which shall have been claimed, on presenting his, her or their demand as aforesaid, in those cases which he or they would be, in like cases, so entitled, were the recovery had against a defendant or defendants in his, her or their own right; to be adjudged against the estate of the decedent.

If sued within the time allowed to settle, no costs recovered nor execution heard

Proviso relating to the recovery of costs

Sec. 31. That when the executor or administrator shall apply to the court, under this act, for authority to sell the real estate of his testator or intestate, the application shall be by petition, to which the widow, (if any there be,) and the lawful heir or heirs, or the person or persons having the next estate of inheritance of the testator or intestate, if known to such executor or administrator, shall be made defendant thereto; and the defendants shall be served with process, or otherwise notified of the pendency of such petition, in the manner prescribed in the "Act directing the mode of proceeding in chancery;" and if the names of the persons who ought to be made defendants to such petition, shall not be known to the petitioner, the same proceedings may be had as are authorized in such cases in chancery.

Application to sell land to be by petition

Who shall be defendants, and how served with process

Sec. 32. That if upon the hearing of such petition, the

Land to be appraised court is satisfied that it is necessary to sell the real property described therein, or any part thereof, for the payment of debts against said estate, they shall appoint three disinterested men to view the lands, tenements or hereditaments, so described; who being first duly sworn, shall, if such widow be entitled to dower in such real estate, set off to said widow her dower therein, by metes and bounds: and in case such lands be situated in two or more counties, or two or more tracts, it shall be lawful for said appraisers to set off said dower in one or more counties, or in one or more tracts, as they may think most equitable, and shall return to the court the statement of the value of such lands, subject to such dower; and the court shall allow them the sum of one dollar per day, each, for their service, where such service shall be performed within the county where the appraisers reside, and one dollar and fifty cents per day, each, where the services are performed out of such county.

Compensation of appraisers

Upon return of appraisement court may direct a sale of the whole or a part

Notice of sale, how given

Terms of sale

Proviso, relative to the amount for which real estate must be sold

Sec. 33. That upon the return of said appraisers, the court shall direct the executor or administrator to sell either the whole or a part, (as they may think proper,) of such real estate, subject to the widow's dower, if any, and including the remainder after such right of dower shall be determined, after giving notice of the time and place of sale, by advertising the same at least four weeks successively, in some newspaper printed in the county where the lands are situate; or in case no newspaper be printed within such county, then by advertising the same in at least five public places in the county, four weeks before the day of sale: and such lands, tenements or hereditaments, shall be sold to the best advantage, either for cash or limited credit, the purchaser securing the payment of the installments as they may become due; but no credit shall in this case extend beyond the period of three years: *Provided*, That any such tract of land, with improvements thereon, shall not be sold for less than two thirds, and every tract of land without improvements, for less than one half its appraised value, unless it shall be made appear, to the satisfaction of the court, that the same cannot be sold for one half or two thirds, (as the case may be,) of the appraised value thereof; in which case the court may, at their discretion, order the executor or administrator to sell said land at such price and in such manner as they may think proper to direct.

Executor &c. applying for sale and dying, who shall sell and convey

Sec. 34. That if at any time after the filing of a petition for the sale of real estate, as aforesaid, the executors or administrators making such application shall die before the sale and conveyance of such real estate, it shall be lawful for the executor of the deceased executor, or for the administrator de bonis non of the first testator or intestate, (as the case may be,) to proceed with such sale, and to convey to the purchaser or purchasers, in the same manner that the original executor or administrator might or could have done; and the court may, if they deem it necessary, or at the request of any creditor or

heir of the decedent, require such administrator de bonis non, either at the time of his appointment, or before confirming any sale of land made by him in pursuance of this section, to give security for the purpose, and according to the provisions of this act.

Sec. 35. That the executor or administrator making sale of any lands, by virtue of this act, shall make a return of his proceedings to the next term of said court, after such sale; and the court, after having carefully examined such return, and being satisfied that the sale has in all respects been legally made, shall direct their clerk to make an entry on the minutes that the court is satisfied of the legality of such sale, and order that the executor or administrator make to the purchaser a deed for such lands and tenements so sold: and such deed so executed, shall be received in all courts as prima facie evidence that the executors or administrators have in all respects observed the directions, and complied with the requisitions of the law making the sale thereof, and shall vest the title in the purchaser as completely as though it had been conveyed by the deceased, in his life time.

Proceedings relative to the sale of lands to be reported to the court for confirmation

Sec. 36. That when any person has heretofore purchased, or may hereafter purchase, any lands, and die intestate previous to the payment being completed therefor; and it shall be made appear to the satisfaction of the court, that there are not assets in the hands of the administrator, after paying all just debts, funeral and other incidental expenses, sufficient to complete such payment, the court shall order such administrator to sell the same, in all respects agreeably to the provisions of this act, who is hereby authorized and required (upon the order of the court aforesaid,) to transfer and convey the title of such lands to the purchaser, or his legal representatives, as fully and completely as such deceased might or could have done in his life time.

Equitable interest in lands may be sold as aforesaid

Sec. 37. That the court may require, if they deem it necessary, of any executor or administrator, to whom they grant the privilege of selling real property, what security they may think proper to secure to the creditors or heirs, the money arising upon such sales, respect being had to the value of such lands.

Court may require security at discretion

Sec. 38. That when any lands, tenements or hereditaments have heretofore been, or shall hereafter be, devised by any last will and testament to the executors therein named; or any of them, to be sold or conveyed for the payment of debts or legacies, or where such lands, tenements or hereditaments shall be thereby ordered to be sold or conveyed for the same or any other purpose, by such executors, or any of them, it shall not be necessary for said executor or executors, who take upon themselves the burden of execution, to apply to the court of common pleas for an order to sell or convey the same; but the same shall in all things be disposed of according to the devise of the testator or testatrix: *Provided, however,* That nothing in this

Executor may sell land devised to be sold without an order of court

section contained, shall be so construed as to extend the time within which such executor or executors shall be bound to settle with the court, nor to deprive any creditor or creditors, legatee or legatees of such testator or testatrix, of any right of action which they otherwise might have had against such executor or executors, or against the heirs of such testator or testatrix.

Executors or administrators appointed in other State; may sell lands in this State, in the manner prescribed by this act

Sec. 39. That whenever any person living in any other State or Territory, shall die, leaving real property within this State, and the executor or administrator appointed in such State or Territory, shall produce to the court of common pleas of the county where such real property is situated, a regular, executed and authenticated certificate of such appointment from the judge of the court by whom such letters testamentary, or letters of administration, were granted; and shall make it appear to the satisfaction of such court, that it is necessary for the payment of the debts of the deceased, that all, or a part of such real property should be sold: the court shall have power to direct a sale of the whole, or such part of said real property, as they may think necessary; and the application and proceedings therein, shall, in all respects, be conducted in the same manner that the application and proceedings of resident executors and administrators are required to be conducted by the provisions of this act.

Legal claims shall be received till final settlement, but not to affect prior distribution

Sec. 40. That the executor or administrator shall, at any time before final settlement, receive just and legal claims against said estate: *Provided*, Such claim shall not affect any prior dividend or distribution which shall have been made of said estate agreeably to the provisions of this act; but such claim shall receive its just proportion of said estate out of any money or assets on hand, or which may thereafter come to the hands of such executor or administrator.

Actions against executors, &c. on claims not presented before settlement on final dividend, shall be barred

Sec. 41. That all claims of creditors against the estates of deceased persons, which shall not be presented to the executor or administrator, before the final settlement of such executor or administrator with the court, or in case the estate of such deceased person be insolvent, before the final dividend of such estate shall be declared by the court, shall be barred, so far as relates to any right of action against such executor or administrator; *Provided*, Such settlement shall not be made, or dividend declared, until the expiration of eighteen months after the date of the letters testamentary, or letters of administration, granted on the estate of such deceased person.

Limitation of lien on the real estate of decedent for the payment of debts

Sec. 42. That at the expiration of five years from and after the decease of any person, if the executor or administrator of such decedent shall have made final settlement with the court; and if not, then so soon as such final settlement shall be made, all lien upon the real estate of such decedent for the payment of any claim against his or her estate, not presented to such executor or administrator before such final settlement, shall

cease and determine; and such real estate may then be aliened by the heirs or devisees of such decedent freed from the incumbrance of such claim.

Sec. 43. That nothing in the preceding section contained, shall impair the personal liability of heirs or devisees for the payment of any claim against the estate of their ancestor or devisor; but such heirs and devisees shall remain liable to the full extent of the assets by them received from the estate of their ancestor or devisor, for the payment of all claims against the estate of such ancestor or devisor; and any suit which could be brought and sustained against such ancestor or devisor, were he alive, may be brought and sustained against such heirs and devisees, after the executor or administrator of the ancestor or devisor shall have made final settlement with the court, until the assets so received by such heirs or devisees shall be exhausted: *Provided, always,* That such heirs or devisees may make any plea or defence to such suit which their ancestor or devisor could make, were he alive, and such suit instituted against him.

Persons dying out of this State, and leaving property within it, courts may grant administration

Sec. 44. That it shall, at all times hereafter, be lawful for the judges of the court of common pleas, or any three of them, when required, to convene for the purpose of granting letters of administration, taking the probate of wills, or for the appointment of guardians for minors, in the same manner such duties are performed at the regular session of said court; and at any such special session, where there shall be but one application for that purpose, the said judges shall receive one dollar and fifty cents per day, each; and where there shall be more than one such application at the same special session, the said judges shall be allowed and paid for their services, the sum of two dollars per day, each; to be paid in equal proportions by each applicant, out of the estate of the deceased, by the executor or administrator, or out of the estate of the ward or wards, by the guardian, or guardians, so appointed, as the case may be.

Common Pleas may hold special sessions for granting letters, &c.

Compensation at special sessions, and how paid

Sec. 45. That the several courts of common pleas, within this State, are hereby authorized and required, to grant letters of administration, as well in cases of persons dying, or who have died out of this State, having rights and credits, or any real or personal estate within this State, as in cases where such person may die, or may have died, within this State, and under the same provisions, rules and regulations.

Persons dying out of this State, and leaving property within it, courts may grant administration

Sec. 46. That every executor or administrator, who has been, or shall hereafter be, appointed within any of the United States, or Territories thereof, according to the laws of the State or Territory, within which such appointment may have been, or hereafter may be made, shall be authorized by virtue thereof, to commence and prosecute any action or suit, either in law or equity, in any court of this State, having jurisdiction of the subject matter of such action or suit, in his or her capacity of administrator or executor, in the same manner, and under the

Executor or administrator appointed in another State, may sue in this State

same regulations, as any non-resident may be permitted to sue or be sued.

Executors and administrators may appeal with out bond
 Sec. 47. That every executor or administrator who may have given bond in this State, agreeably to this act, shall be, and is hereby authorized, in all cases of an appeal from one court to another, by him made, to prosecute the same without filing any bond to prosecute the said appeal to effect, and abide the judgment thereon to be had.

Acts repealed

Sec. 48. That the act, entitled "An act defining the duties of executors and administrators," passed the eleventh day of February, eighteen hundred and twenty-four; and the act, entitled "An act supplementary to the act, entitled 'An act defining the duties of executors and administrators,'" passed February the seventh, eighteen hundred and twenty-five; and an act, entitled "An act explanatory of an act, entitled 'An act defining the duties of executors and administrators,'" passed January sixteenth, eighteen hundred and twenty-seven; and an act, entitled "An act to amend the 'Act defining the duties of executors and administrators,'" passed February eleventh, eighteen hundred and twenty-eight; and an act, entitled "An act further to amend the act, entitled 'An act defining the duties of executors and administrators,'" passed February tenth, eighteen hundred and twenty-nine; and all other acts and parts of acts coming within the purview of this act; be, and the same are hereby repealed: *Provided*, That all rights which have accrued, and all suits and proceedings now pending, under the provisions of the acts hereby repealed, shall be determined and conducted agreeably to the provisions of said acts; and all judgments which heretofore have been, or may hereafter be, rendered on such suits, shall be carried into execution under the provisions of said acts.

Provide, saving rights acquired and suits pending

This act to take effect and be in force from and after the first day of June next.

JAMES M. PELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 12, 1831.

AN ACT relating to Wills.

Every description of property may be devised

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person having an estate in any lands, tenements or hereditaments, or any annuity or rent charged upon, or issuing out of the same, or any goods or chattels, rights, credits and choses in action, or in possession, and property of every description whatever; may give or devise the same, to any person, by last will and testament, by him or her lawfully executed.

Sec. 2. That every such last will and testament shall be in writing, and signed by the party making the same; or by some other person in his or her presence, and by his or her express direction: and shall be attested and subscribed in the presence of such party, by two or more credible witnesses, who saw the testator or testatrix subscribe, or heard him or her acknowledge the same. Wills, how executed

Sec. 3. That no last will and testament, made by any infant, idiot, or person of insane memory, shall be valid in law. Who cannot make a will

Sec. 4. That the rights of creditors shall not be impaired by any last will and testament; nor shall the right of dower of the widow of any testator be prejudiced thereby, unless any legacy or devise to such widow, in the will contained, shall be expressly specified to be in lieu of dower: and in case of a devise, in lieu of dower, if the widow shall, within six months after probate of the will, make known to the court of common pleas for the proper county, her election to relinquish her dower and claim under the will; then her election so made as aforesaid, shall be entered on the minutes of the court, and her right of dower in the estate of the testator shall be thereby barred: and if any widow fail to make her election as aforesaid, she shall retain her dower, and take nothing by the will. Rights of creditors, and right of dower, not prejudiced by will Election of widow

Sec. 5. That any last will and testament, or any clause thereof, shall be revoked by the testator or testatrix destroying, cancelling, or obliterating the same, or causing it to be done in his or her presence, or by subsequent will, codicil, or instrument made as aforesaid; or when the testator or testatrix had no children at the time of executing such will, but shall afterwards have a child, and in either case, such last will or codicil shall be void. How a will may be revoked

Sec. 6. That when a testator or testatrix, at the time of executing his or her last will as aforesaid, shall have a child absent and reported to be dead; or shall have a child or children born, and shall afterwards have a child who is not provided for in such will; the child who is absent and reported to be dead at the time of executing such will, or the child born after executing such will, shall succeed to the same share of the testator's or testatrix's estate, as he or she would have been entitled to, if such testator or testatrix had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably out of the part devised or bequeathed to them by such last will: *Provided*, That any such child, who shall have received any share or portion of the testator's or testatrix's estate by way of advancement, shall have deducted therefrom, the value of such share or portion at the time of such advancement, before he or she shall be entitled to any portion of such estate, as in this section is above provided. Child reported to be dead at the time of making will, or born afterwards, shall inherit as if no will had been made

Sec. 7. That where any personal property, or real estate, shall be bequeathed or devised by last will and testament as aforesaid, the executors to such will, or any person interested Probate of will

therein, may cause the said will to be brought before the court of common pleas, of the county in which such property or estate may be; and the said court shall cause the witnesses to such will to be examined in open court: and if it shall appear to the court, when such will is offered for probate, that any witness to such will is dead, or gone to parts unknown, then such proof shall be taken in open court, of the hand writing of the testator or testatrix, or of such witness so dead, or gone to parts unknown, or of such other circumstances as would be proper to prove such will on a trial at law: and such court may issue a commission with the will annexed, directed to any suitable person, to take the deposition of any absent witness; and all such depositions, duly certified and returned, shall be as valid as if taken in open court; and the said court shall cause all such examinations and proofs to be reduced to writing: and if it shall thereupon appear that such will was duly executed, and that the testator or testatrix, at the time of executing the same, was of full age, and of sound mind and memory, and not under any restraint, the court shall order the clerk to record such will, together with the proof so taken, in a book to be kept by the clerk for that purpose.

Will and proof
to be recorded

Sec. 8. That every copy of such will, which shall be proved in manner aforesaid, and have a certificate thereof indorsed upon it, with the seal of the said court thereunto annexed, and also a transcript of the record of the probate of such will, certified by the clerk, and sealed with the seal of the court, shall be as effectual in all cases, as the original will would be if produced and proven.

Certified copy of
will to have
same effect as
original

Sec. 9. That said court shall cause all such witnesses, as any person interested therein may desire, to come before such court and testify, touching the premises: and any person having custody or power of any such will, may be compelled to produce the same before the said court, for the purpose aforesaid.

Person interest
ed in will may
have witnesses
examined

Sec. 10. That if any person shall subscribe his or her name as a witness to a will, wherein any bequest or devise is given to him or her, if the will cannot otherwise be proved, such bequest or devise shall be void, and such witness shall be competent to give testimony of the execution of such will, in like manner as if no such bequest or devise had been made; but if such witness would have been entitled to any share of the testator's estate, in case such will was not established, so much of said share shall be saved to him or her, as shall not exceed the bequest or devise bequeathed to him or her.

Effect of a de-
vise to a witness
to the will

Sec. 11. That a verbal will shall be valid in respect to personal estate, if it be made in the last sickness of the deceased, and [it] be proved by two credible disinterested witnesses, that the testator or testatrix, was of sound mind and memory, and that he or she did, at the same time, call on some person present to bear testimony that such was his or her will.

Verbal will,
when valid

Sec. 12. That after six months have elapsed, from the time

of speaking the pretended testamentary words, no testimony shall be received to prove a verbal will; nor shall such will be valid unless it be committed to writing, and subscribed by the witnesses, within ten days after making the same.

Verbal will must be proven in six months, and reduced to writing in ten days

Sec. 13. That if the real estate, so devised as aforesaid, be in several counties, then such will shall be proved in manner aforesaid, in one of such counties, and a certificate of such probate shall be indorsed upon it, with the seal of the court thereunto affixed; which will, with such certificate, shall be admitted to record in every county in which such lands are situated, and shall have the same validity therein, as if probate had been had thereof in each of such counties.

When lands devised lie in several counties, will shall be proven in one, and recorded in each

Sec. 14. That authenticated copies of wills, proved according to the laws of any State or Territory of the United States, relative to any property within this State, may be admitted to record by the court aforesaid, in the county where such property shall be; and such authenticated copies shall be good and valid in law, in like manner as wills made in this State are declared to be.

Copies of wills proven in other States, may be recorded, and shall be good in this State

Sec. 15. That the expense of proving and recording said wills, shall be paid by the person applying to have the same done; and the witnesses and officers shall have the like fees for their attendance and services, on proving a will as aforesaid, as for the like attendance and services in other cases.

Expenses of probate and recording wills, how paid

Sec. 16. That if the executor named in any will should die, refuse to act, or if no executor shall be named therein, the court may receive the probate of such will, or admit to record a copy thereof, authenticated as in this act is directed, and grant letters of administration, with the will annexed, to the person to whom administration would have been granted, if such testator had died intestate.

When administration, with the will annexed, may be granted

Sec. 17. That where any lands, tenements, or hereditaments have been, or shall be given or devised, by any last will and testament executed as aforesaid, to the executors therein named, or any of them, to be sold or conveyed; or where such lands, tenements, or hereditaments, shall be thereby ordered to be sold or conveyed by such executors, or any of them, and part of the executors so named, die, refuse, or neglect to take upon them the execution of the said will; then all sales and conveyances of the said lands, tenements, or hereditaments, by the executor or executors, who take upon himself or themselves the execution of the will, shall be equally valid as if the residue of the executors had joined in the sale and conveyance: but if none of the executors named in such will, take upon themselves the execution thereof; or if all such executors so taking upon themselves the execution thereof, shall die before the sale or conveyance of such lands, tenements, or hereditaments; such sale or conveyance shall be made by the person or persons to whom administration, with the will annexed, may be granted by the court.

Lands devised to be sold, may be sold by surviving executor

Or by administrator with the will annexed

Sec. 18. That before granting a certificate of probate of any will, the said court shall administer to the executor, or the administrator, with the will annexed, the following oath or affirmation, to wit: "You do swear (or affirm), that this writing contains, as far as you know or believe, the true last will and testament of A. B.; and that you will well and truly perform the same, by paying first the debts, and then the legacies contained in said will, as far as his goods, chattels and credits will extend, and the law charges you: and that you will make a true inventory of all the said goods, chattels and credits; as also a just account, when thereunto required."

Executor &c, to take an oath

Form of the oath

Will to be recorded and filed in clerk's office

Sec. 19. That all original wills shall be recorded and filed in the clerk's office of the court in which they are respectively proven.

Wills how contested

Issue to be tried by jury, &c.

Sec. 20. That if any person interested shall, within two years after probate had, appear, and by bill in chancery, contest the validity of the will, an issue shall be made up, whether the writing produced be the last will of the testator or testatrix, or not; which shall be tried by a jury, whose verdict shall be final between the parties, saving to the court the power of granting a new trial, as in other cases: but if no person appear in that time, the probate shall be forever binding; saving also to infants, married women, and persons absent from the State, or of insane mind, or in captivity, the like period after the removing of their respective disabilities.

Certificate of probate, when evidence on trial

Sec. 21. That in all such trials by jury, the certificate of the oath of the witness at the time of the first probate, shall be admitted as evidence in case of the absence, death, or disability of any such witness, at the time of such trial.

Appeals allowed

Sec. 22. That appeals may be had from the decision of the court of common pleas, to the supreme court, when any will, or other matter relating thereto, shall have been contested.

Executor, &c. may sell real estate by order of court

Sec. 23. That in case of a deficiency of personal assets, the court shall order the executor, or administrator, with the will annexed, of any last will and testament, to sell the whole or a part of the real estate of the testator or testatrix, in the same manner, and under the same regulations, as is, or shall be, by law provided for the sale of real estate of intestates.

Testamentary guardian may be appointed

Sec. 24. That when any person hath any child under the age of twenty-one years, and not married at the time of his death, it shall be lawful to, and for, the father of such child, whether born at the time of the death of the father or not, by last will and testament duly executed as aforesaid, to dispose of the custody and tuition of such child, for and during such time as he or she shall respectively remain under the age of twenty-one years, or any less time, to any person or persons; and that the possession or custody of such child, shall be good and effectual against every person claiming the custody or tuition of such child: and that such person or persons, to whom the custody of such child be so disposed or devised as aforesaid, may maintain

an action of ravishment of ward, or trespass, against any person who shall wrongfully take away or detain such child, for the recovery of the same; and shall, and may recover damages, in said action, for the use and benefit of said child.

Sec. 25. That when any testator, in his last will and testament, has appointed, or shall appoint, any trustee or trustees, to execute a trust created by such will, and has not provided for the contingency of the death, incapacity, or refusal of such trustee or trustees to accept or execute the trust; the court of common pleas having the probate of such will, shall have power, in such cases, to appoint some suitable person or persons to execute such trust, according to the will; taking from them good and sufficient bonds, with security, conditioned for a faithful performance thereof.

On failure of trustees appointed by will, court may appoint person to execute the trust

Sec. 26. That the trustee, or trustees, appointed in any last will and testament, made out of this State, to execute a trust relative to lands in this State; or the trustee or trustees appointed by any court of probate, according to the laws of any State or country, to carry into effect a trust created by any last will and testament of a testator who may have resided out of this State, respecting lands in this State; on producing an authenticated record of his or their appointment, before the court of common pleas in the county where the land described in any such will may be situated, and by giving bond to the State of Ohio, in such sum, and with such security, as shall be approved by the court, conditioned to discharge with fidelity the trust reposed in him or them, may dispose of such land, in the same manner, and under the same regulations, as are or may be by law provided for the sale of real estate of intestates.

Trustee appointed by will or court, out of this State, may sell lands in this State, and how

Sec. 27. That the act, entitled "An act relating to wills," passed February the twenty-sixth, eighteen hundred and twenty-four, be, and the same is hereby repealed.

Act repealed

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 18, 1831.

AN ACT for the appointment of Guardians

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the court of common pleas shall have power, whenever they consider it necessary, to appoint a guardian or guardians to all minors within their county; and on good cause shown, to authorize such guardian or guardians to sell all, or any part of the property, whether real or personal, of his or their ward or wards; and the court shall at the same time direct the manner of securing to said ward or wards, the money arising on such sale: which said guardian or guardians shall, before enter-

Court of common pleas to appoint guardians to minors

Guardian's bond ing on the discharge of [the] duties of his or their appointment, in every case give bond to the State of Ohio, in such sum, and with such security as shall be approved of by the court, conditioned to discharge with fidelity the trust reposed in him or them, and for rendering an accurate statement of his or their transactions, with a just account of the profits arising and accruing from the real or personal estate of his or their ward or wards, and for delivering up the same to the court when thereunto required; which bond shall be filed with the clerk of the court: and the court may allow to such guardian or guardians, such compensation as they may think proper, for the services by him or them performed, in virtue of the appointment aforesaid: *Provided*. That no person who shall be, or who may have been, an administrator of any estate, or executor of any last will and testament, shall be appointed by the court a guardian for any minor who shall be interested in said intestate estate, or who shall claim and be entitled, as heir, devisee, or otherwise, to any interest under or by virtue of said last will and testament, unless such guardian be appointed by last will and testament.

Compensation

Proviso

Guardians must account, or be removed

Sec. 2. That the court of common pleas shall have power, by citation and attachment, to compel any guardian or guardians, to render, from time to time, an account of his or their management of the estate of said ward or wards; and, upon good cause shown, to remove such guardian or guardians, and appoint another, or others, in his or their stead.

How sale of property to be conducted

Sec. 3. That no sale of real property shall be made under the provisions of this act, unless the court shall be satisfied that such sale will be for the advantage of such ward or wards, or necessary for his or their maintenance; and the guardian or guardians shall be governed therein by the same regulations as are required of administrators in the sale of real property, in the case of insolvent estates.

Minors of other States

Sec. 4. That minors living out of this State and owning lands within the same, shall be entitled to the benefit of this act, on their guardian or guardians giving such security as shall be approved of by the court in the county wherein such land is situated.

Testamentary or not, to settle with court

Sec. 5. That it shall be the duty of every guardian, whether appointed under the authority of this act, or by the last will and testament of any testator, within three years after his appointment, or the death of the testator, (as the case may be,) and at the expiration of every two years thereafter, to settle his account with such ward or wards before the court of common pleas by which he may have been appointed, or before the court which may have granted probate of said last will and testament, whereby said guardian or guardians may have been appointed; which settlement shall be final between the parties thereto; saving, however, to any such ward or wards, the right

Wards may review settlement

of opening and reviewing the same in chancery or elsewhere, upon good cause shown, at any time within two years after the

said ward or wards shall arrive at full age: and it shall be the duty of such guardian or guardians, at the term of the court preceding that at which he or they intend to apply for such settlement, to file with the clerk of said court a statement of his or their account, with the vouchers in support thereof; whereupon, the said clerk shall, within thirty days thereafter, cause to be published in some newspaper printed within the county, for three weeks successively, a notice wherein shall be set forth such intended application, together with the name or names of the guardian or guardians so applying as aforesaid: but if no newspaper shall be published within the county, then such notice shall be put up on the court house door.

Sec. 6. That when there are minors as aforesaid, males above fourteen, and females above twelve years of age, or when any minors for whom the court have appointed a guardian or guardians, shall arrive at the respective ages aforesaid, such minors may severally choose a guardian or guardians, such as the court shall approve; and if such minors do not come before the court and choose a guardian or guardians, after being notified by the court so to do, the court shall appoint a guardian or guardians for them as aforesaid. Minors may choose guardians

Sec. 7. That any guardian or guardians appointed as aforesaid, for any female under the age of twelve, or any male under the age of fourteen years, may, if it be necessary, bind such minor or minors to any suitable person, until such minor or minors, (if a male,) shall arrive at the age of twenty-one years, and if a female, at the age of eighteen years: *Provided*, That before the indenture whereby any minor or minors may be bound to service, according to this section, shall be holden valid in law, the person or persons to whom such minor or minors shall be bound as aforesaid, and also the terms and covenants in such indenture contained, shall be approved of by the court; and a certificate of the clerk, with the seal of such court, shall be attached to such indenture, in testimony of such approbation. Guardians may bind wards
Provide

Sec. 8. That all laws and parts of laws coming within the purview of this act, be, and the same are hereby repealed. Laws repealed

This act to take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

February 6, 1824.

AN ACT relating to Dower.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the widow of any person dying, shall be endowed of one full and equal third part of all the lands, tenements, and Widow to be endowed of real and equitable estate

real estate of which her husband was seized, as an estate of inheritance, at any time during the coverture; and she shall, in like manner, be endowed of one third part of all the right, title or interest that her husband, at the time of his decease, had in any lands and tenements, held by bond, article, lease, or other evidence of claim: and she shall remain in the mansion house of her husband, free of charge, for one year after his death, if her dower be not sooner assigned her.

May remain in mansion house, etc.

Jointure bars dower, when

Sec. 2. That if any estate shall be conveyed to a woman as jointure, in lieu of her dower, to take effect immediately after the death of her husband, and to continue during her life, such conveyance shall bar her right of dower to the lands and tenements which were her husband's; but if the jointure or conveyance was made when the feme was in infancy, or if made after marriage, in either case, the widow, at her election, may waive her jointure and demand her dower.

Widow may elect

Wife's inheritance not injured by act of husband

Sec. 3. That no contract of the husband, or recovery against him, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise deprive the wife, after the death of her husband, of any right which she had or might have to such lands, tenements or hereditaments, or her heirs, or any person who shall have right, title or interest to the same by the death of such wife or widow.

Availing herself of defective conveyance, to chase, etc.

Sec. 4. That when any conveyance intended to be in lieu of dower, shall, through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her dower, the estate and interest conveyed to such widow, with intention to bar her dower, shall thereupon cease and determine.

Evicted from jointure, to be endowed of other lands

Sec. 5. That if any widow be lawfully evicted from her jointure, or any part thereof, without fraud in her, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments from which she was evicted, shall amount to.

An adulteress barred of dower

Sec. 6. That if any wife willingly leave her husband and dwell with her adulterer, she shall lose and be barred of her right of dower; but if she shall return, and her husband shall be reconciled to her and dwell with her, she shall be restored to her right of dower.

Husband giving up lands by covin, wife may recover dower

Sec. 7. That if the husband in his life time shall be impleaded for lands or tenements, and giveth up the same by covin or fraud, after the death of the husband the wife may recover her dower of the same; and in case the husband loseth the land in demand by default, and his wife, after his death, demand her dower therein, she shall be heard: and if the widow can establish the right of the husband to the lands and tenements, she shall be entitled to, and recover her dower therein.

Sec. 8. That when the lands of the deceased are not en-

cumbered by mortgage, or by judgments obtained against such decedent in his life time, the heir or other person having the next immediate estate of inheritance, may assign to the widow, ^{Heir may assign dower} her dower therein, by writing under his hand and seal, particularly describing the same; which if accepted by such widow, shall be holden a good assignment in law.

Sec. 9. That the widow applying for dower, in the lands of her deceased husband, may file her petition in chancery, ^{Petition in chancery for dower} against the heir, or other person having the next immediate estate of inheritance, setting forth her right thereto, and describing the tracts of lands of which she claims to be endowed; and the court, on the hearing of such cause, shall render such decree in the premises, as to them shall appear just and consistent with the rights of all the parties interested therein.

Sec. 10. That when the rights of any mortgagee, or the lien of any judgment creditor, shall be shown to the court by cross petition filed before the rendition of a decree, in such petition for dower, such rights and liens shall be regarded by the court, in the rendition of such decree, and no inequality shall be allowed, or any injustice done to any such mortgagee or judgment creditor to the benefit of another.

Sec. 11. That when the lands lie in several counties, the petition for dower shall be preferred in the county in which the principal messuage of the deceased is situate: and the court of common pleas of such county shall have complete jurisdiction, and may order the whole dower of such widow to be assigned in any one or more of such counties, and out of any one or more tracts of land; if the same may be done without prejudice to the rights of any person claiming title to, or holding a lien on such land. ^{Petition to be filed where messuage is situated}

Sec. 12. That when dower shall be decreed on any petition filed as aforesaid, the court shall issue their order to the sheriff of one of the counties in which such lands may be situate, commanding him, that by the oaths of three judicious, disinterested men of the vicinity, who are not of kin to either of the parties interested, he cause such dower to be set off and assigned to such petitioner, in manner as set forth in the decree; and the sheriff to whom such order is directed, shall in all things obey the same, and return his proceedings therein to the said court, at their next term: and such assignment, if approved by the court, shall be entered on the records thereof, and shall be thenceforth valid and effective in law: a writ of seizin shall thereupon issue from the said court to such sheriff, ^{On decree of dower, sheriff to assign, how} who on the receipt thereof, shall deliver to the widow full possession of her dower, assigned to her as aforesaid. ^{A writ of seizin may issue}

Sec. 13. That if during the minority of the heir, dower shall be assigned to a widow who is entitled thereto, or if she shall recover the same on application to the court by the default, fraud or collusion of the guardian, such person coming of age may have his action against such widow for the same. ^{Heir may have action, if dower is collusively assigned}

May be endowed
of rents

Sec. 14. That where estates, of which a woman is dowable, are entire, and where no division can be made by metes, or bounds, dower thereof shall be assigned in a special manner, as of a third part of the rents, issues and profits, to be computed and ascertained in manner aforesaid.

Waste forfeits
dower

Sec. 15. That no woman who shall be endowed of any lands, tenements or hereditaments as aforesaid, shall wantonly commit, or suffer any waste thereon, under the penalty of forfeiting that part of the estate, in which such waste shall be made to him or them that have immediate estate of inheritance in remainder or reversion, to be recovered in action of waste.

All prior laws
repealed

Sec. 16. That all laws and parts of laws, heretofore passed on the subject of dower, be, and the same are hereby repealed.

This act shall take effect and be in force from and after the first day of June next.

Effect

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 28, 1823.

AN ACT regulating descents, and the distribution of personal estates.

Course of des-
cents of real es-
tates of inheri-
tance which have
come by descent,
devise or deed of
gift from an an-
cestor

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any person shall die intestate, having title or right to any real estate of inheritance in this State, which title shall have come to such intestate by descent, devise, or deed of gift, from any ancestor, such estate shall descend and pass in parcenary to his or her kindred, in the following course: First, To the children of such intestate, or their legal representatives: Second, If there be no children or their legal representatives, the estate shall pass to the brothers and sisters of the intestate, who may be of the blood of the ancestor from whom the estate came, or their legal representatives, whether such brothers and sisters be of the whole or the half blood of the intestate: Third, If there be no brothers or sisters of the intestate, of the blood of the ancestor from whom the estate came, or their legal representatives, and if the estate came by deed of gift, from an ancestor who may be living, the estate shall ascend to such ancestor: Fourth, If the ancestor from whom the estate came be deceased, the estate shall pass to the brothers and sisters of such ancestor, or their legal representatives; and for want of such brothers or sisters, or their legal representatives, to the brothers and sisters of the intestate of the half blood, or their legal representatives, though such brothers and sisters be not of the blood of the ancestor from whom the estate came: Fifth,

If there be no brothers or sisters of the intestate, or their legal representatives, the estate shall pass to the next of kin to the intestate of the blood of the aucestor from whom the estate came.

Sec. 2. That if the estate came not by descent, devise, or deed or gift, it shall descend to the children of the intestate, and their legal representatives. Estate otherwise derived, shall descend to children

Sec. 3. That if there be no children, or their legal representatives, the estate shall pass to the brothers and sisters of the intestate of the whole blood, and their legal representatives. If no children, then to the brothers and sisters of the whole blood

Sec. 4. That if there be no brothers or sisters of the intestate of the whole blood, or their legal representatives, the estate shall pass to the brothers and sisters of the half blood, and their legal representatives. If there be none such, then to those of the half blood

Sec. 5. That if there be no brothers or sisters of the intestate of the half blood, or their legal representatives, the estate shall ascend to the father; if the father be dead, then to the mother. None of half blood, estate shall ascend to father, &c.

Sec. 6. That if the father and mother be dead, the estate shall pass to the next of kin to, and of, the blood of the intestate. Parents dead, then to next of kin

Sec. 7. That when any person shall die intestate, or who has heretofore died intestate, leaving no one of kin of the blood of such intestate; or if the kin or heirs of the blood of such intestate be aliens, residing out of this State; the estate of such intestate shall pass to, and be vested in, the husband or wife, relict of such intestate, unless such alien or aliens shall appear and prosecute his, her, or their claim, within ten years after the death of such intestate: *Provided*, That the alien heir of any intestate who has heretofore died, shall be allowed fifteen years from the death of such intestate, to assert his or her claim to the estate of such intestate. If there be none of kin, or if kin or heirs be aliens, the estate shall vest in husband or wife

Sec. 8. That when any person shall die intestate, having title or right to any real estate, and there shall be no person entitled to inherit the same, by the provisions of this act, the said real estate shall escheat to, and vest in, the State. When none entitled to inherit, estate shall escheat

Sec. 9. That if any person shall die intestate, leaving any goods, chattels, or other personal estate, such goods, chattels, or other personal estate, shall be distributed agreeably to the foregoing course prescribed for the descent of estates, which came not to the intestate by descent, devise, or gift; saving, however, such rights as any widow may have to any portion of such personal estate: *Provided*, That if there shall be no person entitled to inherit, agreeably to the provisions of this act, such personal estate shall pass to, and vest in, the State: and it shall be, and is hereby made the duty of the prosecuting attorney of the county in which letters of administration were or may be granted upon such estate, to collect the same and pay it over to the treasurer of State. Personal estate of intestates, how distributed

Sec. 10. That where any of the before mentioned children, brothers, sisters, or their legal representatives, in the same de- On failure of heirs, personal property shall vest in the State

gree of consanguinity or kindred, come into partition of any real estate, they shall take per capita: but where one or more of them are dead, and one or more of them are living, the issue of those dead shall have a right to partition; and such issue, in such case, shall take per stirpes.

When per stirpes

Advancement,
How considered
on partition

Sec. 11. That if any child or children of the intestate, or their issue, shall have received from the intestate in his life time, any real estate by way of advancement, the value of such real estate, at the time of such advancement, shall be considered as part of his or her share on partition, unless such value shall be greater than his share of the estate descended, and then such advancement shall be considered as his or her full share; and the estate descended as aforesaid, shall be equally divided amongst the other heirs of the intestate.

Descent through
alien ancestor
good
Bastards may in-
herit from mo-
ther

Sec. 12. That in making title by descent, it shall be no bar to a party, that an ancestor through whom he or she derives his or her descent from the intestate is, or hath been an alien: Bastards shall also be capable of inheriting, or of transmitting inheritance on the part of their mother, in like manner as if they had been born in lawful wedlock.

Bastards born, le-
gitimated by in-
termarriage of
parents, &c.

Sec. 13. That where a man, having by a woman one or more children, shall afterwards intermarry with such woman, such child or children, if recognized and acknowledged by him as his child or children, shall be thereby legitimated: the issue also of marriages deemed null in law, shall nevertheless be legitimate.

Courtesy and
dower not affect-
ed by this act

Sec. 14. That nothing in this act shall be so construed, as to affect the right which any person may have to any estate by the courtesy or in dower, in any estate of inheritance of any deceased person.

Act repealed

Sec. 15. That the act, entitled "An act regulating the course of descents and distribution of personal estates," passed February eleven, eighteen hundred and twenty-four, be, and the same is hereby repealed: *Provided*, That the repeal of said act shall not in any way affect the rights of any person derived under said act.

Proviso saving
rights acquired

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 24, 1831.

AN ACT to provide for the partition of real estate,

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all joint tenants, tenants in common and coparceners of any estate, in lands, tenements or hereditaments, within

Joint tenants,
tenants in com-
mon, and copar-

this State, may be compelled to make, or suffer partition of such estate or estates, in manner hereinafter prescribed: and where such estate or estates are situated in one county, the proceedings under this act, shall be had in the court of common pleas, in such county; and where situate in two or more counties, the proceedings under this act, may be had either in the supreme court, when said court shall be in session, in any one of the counties where a part of the premises to be divided shall be situate; or in the court of common pleas, in any one of the counties where a part of such premises shall be situate, at the election of the demandant of partition.

Sec. 2. That any person or persons entitled to partition of his, her or their estate or estates, under this act, may file his, her or their petition, in the court of common pleas, or supreme court, as the case may require, praying that partition of such estate or estates may be made; which petition shall set forth the nature of the title of the demandant, the tract or tracts of land, the tenements or hereditaments, of which partition is demanded, and also, the name or names and place of residence of each joint tenant, coparcener or tenant in common, with such demandant, if they shall be known to such demandant: and if, on examination, it shall appear to the court, that the demandant hath a legal right to any part of such estate or estates, the court shall proceed, in the term in which such petition may be filed, to order a partition to be made in the manner prescribed by the provisions of this act.

Sec. 3. That the demandant in any petition, shall give notice in some newspaper in general circulation, in each county where the lands lie, or shall give personal notice in writing, to each and every person concerned, their agent or attorney, at least forty days previously to the term of the court, next after the filing his petition, setting forth the pendency and demand thereof.

Sec. 4. That whenever it shall appear to the court that due notice hath been given, as aforesaid, and no sufficient reason shall appear why partition should not be made, the court shall proceed to order the partition in favor of such demandant, or all parties in interest, and shall issue their writ, directed to the sheriff of their county; or in case the estate or estates, of which partition is sought, shall be situate in more than one county, then to the sheriff of either of the counties in which the estate or estates may be, commanding him, that by the oaths of three judicious and disinterested freeholders of the vicinity, to be named by said court, he cause to be set off and divided to the demandant, or each party in interest in said petition, such part and proportion of such estate or estates, as the court shall have ordered.

Sec. 5. That in making such partition, it shall be the duty of said freeholders to view and examine such estate or estates, and on their several oaths or affirmations, set apart the same in

such lot or lots, as will be most advantageous and equitable, having due regard to the improvements, situation and quality of the different parts of such estate or estates.

How they shall proceed when partition of more than one tract is demanded

Sec. 6. That when partition of more than one tract is demanded in the same petition, said freeholders shall set off to each of the petitioners, or parties in interest, his proper proportion in each of the several tracts of which partition is demanded, unless the several tracts of which partition is demanded shall be owned by the same proprietors, in the same proportion in each tract; in which case the whole share of any proprietor in, and to all, the several tracts may be set off to such proprietor, according to the best discretion of said freeholders.

Parties may appear in court and consent to partition

Sec. 7. That before a writ shall have issued to the sheriff, the person or persons of whom partition is demanded, shall have the right of appearing in court, in person or by attorney, and of consenting to a partition of such estate or estates, agreeably to the prayer and facts set forth in the petition; which amicable partition made and recorded, shall be valid between the parties thereto.

When lands will not bear partition, they shall be appraised

Sec. 8. That when any writ of partition shall issue, as aforesaid, if the freeholders who are directed to make such partition, shall be of opinion that the estate or estates cannot be divided according to the demand of the writ, without a manifest injury of the value thereof, the said freeholders shall then make and return to the court a just valuation of such estate or estates: whereupon, if said court shall approve of the said return, and if any one or more of the parties shall elect to take the said estate or estates at such appraised value, the same shall be adjudged to him, her or them, he, she or they, paying to the other party or parties, his, her or their proportion of the appraised value thereof, according to his, her or their respective rights; and on payment being made, the sheriff shall, according to the order of the court aforesaid, make and execute conveyances to the party or parties electing to take the same.

No one electing to take, court shall order a sale by the sheriff

Sec. 9. That in case the parties shall not agree, as provided in the preceding section, and no one or more of them will take the said estate or estates on the terms aforesaid, then the said court may, at the instance of the demandant in the petition, make an order for the sale of said estate or estates, at public auction, by the sheriff who shall have executed the writ hereinbefore provided, or his successor in office; which sale shall be made and conducted by such sheriff, in all respects as is or may be provided for the sale of real estate, by the act regulating judgments and executions, except that it shall not be necessary to appraise said estate or estates previous to such sale: but said estate or estates shall not be struck off or sold by such sheriff, for less than two thirds of the appraised value thereof, returned by the freeholders.

Sale how conducted

Sec. 10. That on return of the sheriff of his proceedings, the same shall be subject to the examination of the court; and

if sale has been made, and the same is approved by the court, Court approving the sheriff, on receiving payment of the consideration money, sale, sheriff shall or taking sufficient security therefor to the satisfaction of the make deed the court, shall execute and deliver a deed or deeds to the purchaser or purchasers of the estate or estates so sold: and the said money or securities shall be distributed and paid by order Money to be distributed to the of said court, to and amongst the several parties entitled to partition receive the same, in lieu of their respective parts and proportions of said estate or estates, according to their just rights and proportions.

Sec. 11. That after such estate or estates shall have been once offered and not sold, an alias order may issue for the sale thereof, as often as need be; and it shall be competent for the court who shall have ordered such sale, at their discretion, to order a revaluation thereof, by three judicious, disinterested freeholders of the county, to be appointed by the court, and to direct a subsequent sale thereof, at not less than two thirds of such revaluation: or if said court think it more expedient for the interest of all parties concerned, they may order a sale without such revaluation, at not less than such reduced proportion or proportions of the appraised value, as said court may direct. Estate once offered and not sold, what their proceedings may be had

Sec. 12. That in all cases where a petition is filed for partition of any estate or estates, the widow entitled to dower therein, if any there be, shall be made a party to the proceedings, unless dower shall have been previously assigned. Widow entitled to dower to be made a party

Sec. 13. That if there be any widow entitled to dower in the estate or estates of which partition is demanded, it shall be the duty of the freeholders making such partition, to set off to such widow her dower therein: and in case the estate or estates be situate in two or more counties, or two or more tracts, they may, in their discretion, set off such dower in one or more counties, or in one or more tracts or portions of such estate, as may be judged most equitable; or they may, in their discretion, set off the same in such manner that the same may be contained in the share or shares aperted to one or more of the proprietors of such estate or estates, and such share or shares may be made larger, as the same may be less valuable by reason of such dower therein: or said freeholders may, if deemed for the interest of all parties concerned, make partition of the residue of such estate or estates, after having set off such dower, leaving such estate of dower to be partitioned after the same shall cease and be determined. Duty of freeholders in assigning dower

Sec. 14. That the guardian or guardians of any minor heir or heirs, shall be empowered, on behalf of their ward or wards, to do and perform any act, matter or thing, respecting the partition of any estate or estates under this act; and to elect, on behalf of such ward or wards, to take said estate or estates, when the same cannot be divided without injury, as mentioned in the eighth section of this act, and make payments therefor Guardians may act in partition, for their wards

on behalf of said ward or wards: and such acts and things done by said guardian or guardians, shall be as valid in law as if the same had been done by such ward or wards, after his, her or their arrival at full age.

One parcener may have action of waste against another Sec. 15. That one parcener may maintain an action of waste against another; but no parcener shall have or possess any privileges over another in any election, division, partition or matter to be made or done, concerning lands which have descended.

Costs to be taxed equitably Sec. 16. That the court before whom any partition shall be made, shall tax the costs and expenses which may accrue in the cause, according to equity, having regard to the interest of the parties, and the benefit each may derive from such partition; and shall issue execution therefor against each party, if need be, his, her or their goods, chattels, lands and tenements, as in other cases.

Acts repealed Sec. 17. That an act, entitled "An act to provide for the partition of real estate," passed February 26th, 1820; and an act, entitled "An act amendatory to the act to provide for the partition of real estate," passed January 5th, 1827; and an act, entitled "An act supplementary to an act, entitled 'An act to provide for the partition of real estate,' passed February 12th, 1828; and an act, entitled "An act to amend the act, entitled 'An act to provide for the partition of real estate,' passed February, 2d, 1829; be, and the same are, hereby repealed: **Proviso as to petitions pending** *Provided*, That all petitions for partition, pending in any court in this State previous to the taking effect of this act, shall be proceeded upon to final judgment, and execution for costs, in the same manner as they would have been, had this act not been passed.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 17, 1831.

AN ACT to provide for the execution of real contracts in certain cases.

Surviving coparcener, joint tenant, &c., may petition court for an order to execute real contract Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if two or more persons who heretofore have held, or may hereafter hold, lands, as coparceners, joint tenants, or tenants in common, have heretofore, or shall hereafter become obligated in writing, for the sale and conveyance of the same, or of any part thereof; and any one or more of the said coparceners, joint tenants, or tenants in common, after said contract, and before the conveyance of the land so contracted for,

hath or have died, or shall die; it shall be lawful for the survivor or survivors, to present a petition to the court of common pleas of the county in which the land so contracted for, may or shall be situated, setting forth the facts relative to the said contract, and praying for an order for the execution thereof.

Sec. 2. That if it shall appear to the said court, by good and sufficient testimony, that such contract hath been made, and hath been fully complied with, on the part of the purchaser or purchasers; or that the said purchaser or purchasers is or are then ready to comply with the said contract according to the terms thereof, so that he or they hath or have a full right to demand and receive a conveyance of the said land, or any part thereof; it shall be lawful for the said court of common pleas to make an order, authorizing and empowering the said survivor or survivors to complete the said contract, by conveying the land so contracted for: and the deed so made and executed, by virtue of the order aforesaid, shall convey as complete and perfect a title, and shall, in all respects, have the same effect, as if the said deed had been executed by all the said coparceners, joint tenants, or tenants in common.

Sec. 3. That the said petition shall recite the names of all the contracting parties, the situation, quantity and description of the lands so contracted for, and the time of making such contract; and the deed to be made by virtue of the order aforesaid, shall recite the said order: and it shall be the duty of the clerk of the said court to record the said petition at length, and the order thereon granted.

Sec. 4. That when it may be necessary to petition the court of common pleas, for an order to execute any contract for the conveyance of any tract of land through which any county line may run, or of tracts of land situate in two or more counties, the petition may be presented to the court of either county in which any part of such tract may be situated; and such court shall have the same power to hear and determine such petition, and grant the same order thereon, as though such tract or tracts lay entirely in such county.

Sec. 5. That if any person or persons who have, or shall, enter into any contract in writing, for the sale and conveyance of land or other real property, and before the completion of such contract on his, her or their part, have, or shall die, leaving heirs under the age of twenty-one years, or otherwise; and the executor or executors, administrator or administrators, or other legal representatives of such person or persons so deceased, or who may hereafter die, may or shall be desirous of completing such contract or contracts, for and on behalf of such heirs: such executor, administrator, or other legal representatives, may petition the court of common pleas, of that county in which the lands or real property or any part thereof shall be situated, particularly stating the contracts in like manner as if

Court may order survivor to complete such contract by conveyance

Recites in petition and deed

Petition may be preferred in the county where any part of the land may lie

Executors and administrators may in like manner petition to complete the contracts of testator or intestate

Heirs or representatives of vendor to be defendants and have notice

provided in the case of survivor or survivors; and the heirs at law, devisees or other legal representative or representatives of the deceased vendor or vendors, when not petitioners, shall be made defendants to the said petition, and shall be notified of the pendency thereof, as hereinafter provided: and the same orders and regulations shall be made and pursued, as is hereinabove provided and pointed out, in case of a survivor or survivors.

Court shall order a deed on behalf of the heirs, and they shall be bound thereby

Sec. 6. That upon sufficient proof of such contract having been made and entered into, being given, to the satisfaction of the said court, an order of the court shall be made, authorizing and appointing the executors, administrators, or other legal representatives of such deceased person, or such other persons as the said court of common pleas may deem suitable and proper, fully to complete the said contract or contracts; of such deceased person or persons, and to make and execute a deed or deeds of conveyance, for and on behalf of the heir or heirs of such deceased person or persons, according to the terms and stipulations of such contract or contracts: and the person or persons so authorized by the said court of common pleas, as aforesaid, shall pursue the same rules in making a conveyance, as are provided in case of a survivor or survivors: and such conveyance, when made according to the provisions of this act, shall be binding upon such heirs, and all other persons interested, in the same manner as though the conveyance had been made by the person or persons making such contract or contracts, in his, her or their life time.

Heirs may compel specific performance of contracts, for the purchase of real estate

Sec. 7. That if any person or persons who have entered, or shall hereafter enter, into any written contract, for the purchase of any land or other real property, has died, or shall die, leaving an heir or heirs; such heir or heirs, his, her or their guardian or guardians, may compel the conveyance of such land, in the same manner as such person might have done, agreeably to the provisions of this act.

Decedent's portion of purchase money to be secured

Sec. 8. That it shall be the duty of the said court, before the granting of the order aforesaid, to secure, or cause to be secured, to and for the benefit of the estate or estates of the said deceased party or parties, their just part and proportion of the consideration of the said contract: and the person petitioning for such order, shall pay to the clerk of the said court, for making the necessary entries, the sum of twenty-five cents; and if the said order be granted, the further sum of ten cents for every hundred words contained in the said petition and order, for recording the same.

Clerk's fees

Notice of the pendency and prayer of the petition, how given

Sec. 9. That no petition, filed in court under the provisions of the fifth section of this act, shall be heard by the court, unless satisfactory proof shall be first made to the court, that notice of the pendency and prayer of such petition has been personally served on the parties interested, or published for three successive weeks in some newspaper circulating in the county where such petition may be pending.

Sec. 10. That the act, entitled "An act providing for the execution of real contracts in certain cases," passed January 16, 1810; and the act to amend the act, entitled "An act providing for the execution of real contracts in certain cases," passed January, 1828; be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 25, 1831.

AN ACT for the relief of occupying claimants of land.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases where any occupying claimant being in quiet possession of any lands or tenements, for which such person can show a plain and connected title, in law or equity, derived from the records of some public office; or being in quiet possession of, and holding the same, by deed, devise, descent, contract, bond or agreement, from and under any person claiming title, as aforesaid, derived from the records of some public office, or by deed duly authenticated and recorded; or being in quiet possession of, and holding the same under sale on execution, against any person claiming title as aforesaid, derived from the records of some public office, or by deed duly authenticated and recorded; or being in possession of, and holding any land under any sale for taxes, authorized by the laws of this State, or the laws of the Territory northwest of the river Ohio; or any person in quiet possession of any land, claiming title thereto, and holding the same under a sale and conveyance made by executors, administrators or guardians, or by any other person or persons, in pursuance of any order of court or decree in chancery, where lands are, or have been directed to be sold; and the purchaser or purchasers thereof, have obtained title to and possession of the same, without any fraud or collusion on his, her or their part; shall not be evicted or turned out of possession, by any person or persons who shall set up and prove an adverse and better title to said lands, until said occupying claimant, his, her or their heirs, shall be fully paid the value of all lasting and valuable improvements made on said land, by such occupying claimant, or by the person or persons under whom he, she or they may hold the same, previous to receiving actual notice, by the commencement of suit on such adverse claim, by which such eviction may be effected, unless such occupying claimant shall refuse to pay the person so setting up and proving an adverse and better title, the value of the land, without the improvements

by the court, he shall have a writ of possession

tender a general warrantee deed of the land in question, conveying such adverse or better title, within said time allowed by the court for the payment of the money in this section mentioned; and the occupying claimant shall refuse or neglect to pay said money (the value of the land without the improvements,) to the successful claimant, his heirs or their guardians, within the time limited as aforesaid, then a writ of possession shall be issued in favor of said successful claimant, his heirs or their guardians.

Occupying claimant having paid into court the value of the land on the election of the successful claimant, may obtain a decree for a title

Sec. 11. That the occupying claimant or his heirs, shall in no case be evicted from the possession of such land, unless as is provided in the two preceding sections, where an application is made for the value of improvements under this law; and in all cases where the occupying claimant or claimants, or his or their heirs, shall have paid into court the value of the lands in question, without improvements, within the time allowed by the court, (when an election has been made by the successful claimant or claimants, his or their heirs or guardians as aforesaid, to surrender any tract of land under the provisions of this act,) such occupant or his heirs may, at any time after such payment shall have been made, file his, her or their bill in chancery, in the court where such judgment of eviction was obtained, and obtain a decree for the title of such land, if the same had not been previously conveyed to such occupant as aforesaid.

Acts repealed

Sec. 12. That the acts for the relief of occupying claimants of land, passed February sixteenth, eighteen hundred and ten, and January ninth, eighteen hundred and sixteen, and February twenty-third, eighteen hundred and twenty, and February first, eighteen hundred and twenty-one, and the "Act supplementary to, and explanatory of the act entitled 'An act for the relief of occupying claimants of land, passed the twenty-third day of February, eighteen hundred and twenty,'" passed January twenty-ninth, eighteen hundred and twenty-seven, be, and the same are hereby repealed: *Provided*, That all claims now pending, or which may be undetermined in any court, shall be proceeded in under the former laws in force.

Provision as to claims pending

This act to take effect from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 10, 1831.

AN ACT authorizing and regulating arbitrations.

All controversies where title to real estate is

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all persons who shall have any controversy or controversies, except when the possession or title of real estate

may come in question, may submit such controversy or contro- not questioned
versies to the arbitration or umpirage of any person or persons, may be submit-
to be mutually agreed upon by the parties; and they may make ted to arbitra-
such submission a rule of any court of record in this State. tion

Sec. 2. That the parties to such submission may enter into Arbitration
arbitration bonds; which bonds shall be conditioned for the bonds, what
faithful performance of the award or umpirage, setting forth shall be set forth
the name or names of the arbitrators or umpire, and the mat- therein
ter or matters submitted to his or their determination; and,
when such is the agreement, that such submission be made a
rule of any court of record within this State, or a rule of any
particular court of record named in the submission.

Sec. 3. That said arbitration bonds shall specify some cer- Arbitrators may
tain time and place, at which said arbitration shall be held, adjourn from
allowing said arbitrators or umpire liberty to adjourn from time to time
time to time, until an award or umpirage be made; some time
certain being specified in said bond, at which said award or
umpirage be made up.

Sec. 4. That the parties shall have the benefit of legal pro- Clerk of C. P. or
cess, to compel the attendance of witnesses; which process shall Justices may is-
be issued by the clerk of the court of common pleas, or any ju- ssue subpoenas
stice of the peace for any county in which such arbitration shall for witnesses
be held, and shall be returnable before the umpire or arbitra-
tors, on a day and place certain, named therein.

Sec. 5. That any person disobeying such process, after be- Person disobey-
ing duly served therewith, shall be deemed guilty of contempt ing such process
of the court from which such process issued; and on complaint guilty of con-
made by the party injured, to the court of common pleas, tempt, and may
whose clerk issued such process, or to the justice, as the case be punished as
may be, such court or justice may subject the person disobey- in other cases
ing such process, to the same penalties and forfeitures, and in
the same manner, as such court or justice is authorized to in-
flict upon persons disobeying writs of subpoena in other cases.

Sec. 6. That the umpire or arbitrators, and all witnesses Arbitrators, um-
for either party to such arbitration, examined by the umpire pire and witness-
or arbitrators, shall be under oath or affirmation, to be admin- es shall be
istered to him or them respectively, by any judge or justice of sworn
the peace of the proper county.

Sec. 7. That the award of the umpire or the arbitrators, Award to be in
or a majority of them, shall be drawn up in writing, and signed writing, signed,
by such umpire or arbitrators, named in the submission, or a and a copy deli-
majority of them; and a true copy of said award or umpirage vered to each
shall, without delay, be delivered by the umpire or arbitrators, party
to each of the parties in interest.

Sec. 8. That if either of the parties shall refuse or neglect One party refu-
to comply with said award or umpirage, the other party may se to comply
file the same, together with the submission or arbitration bond, with award, the
in the court named in the submission; or if no particular court other may file
be named therein, then in the court of common pleas in the same in court
county where said arbitration is held.

If for payment of money, court may enter judgment thereon and issue execution Sec. 9. That such court, at the next term thereof after filing the same as aforesaid, if no legal exceptions be made or taken to said award or other proceedings, and said award is for the payment of money, shall enter up judgment thereon, as on a verdict of a jury between the parties; and issue execution thereon as in other cases, immediately after the amount specified in said award is due and payable.

Other awards, how enforced Sec. 10. That so far as said award or umpirage directs the performance of any act or thing, other than the payment of money, the party disobeying the same shall be liable to be punished as for a contempt of court, either by attachment, sequestration or execution, as the nature of the case may require.

For what causes award may be set aside Sec. 11. That if any legal defects appear in the award or other proceedings, or if it shall be made to appear, at the term of the court to which said award and arbitration bond are entered in said court, on oath or affirmation, that said award or umpirage was obtained by fraud, corruption, or other undue means, or that said arbitrators or umpire misbehaved, said court may set aside said award or umpirage, or make such order thereon as may be just and right.

Party enforcing award, must prove the execution of arbitration bond, &c. Sec. 12. That in all cases, the party enforcing any award shall produce satisfactory proof to the court, of the due execution of the submission, or arbitration bond; and that the party refusing or neglecting to obey the award or umpirage, hath been furnished with a true copy thereof, at least ten days before the term at which the application to enforce such award is made.

Fees of arbitrators, &c. Sec. 13. That each person chosen, and performing the duties of an arbitrator or umpire, under this act, shall be entitled to receive one dollar per day for his services; and every witness for his attendance, and justice or judge for administering oaths or affirmations, the same fees as in other cases: which fees shall be taxed by the arbitrators, and inserted in their award or umpirage.

Acts repealed Sec. 14. That an act, entitled "An act authorizing and regulating arbitrations," passed February 14, 1805; and an act, entitled "An act to amend the act, entitled 'An act authorizing and regulating arbitrations,'" passed February 11, 1828; be, and the same are hereby repealed.

This act to take effect and be in force, from after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 17, 1831.

AN ACT pointing out the manner in which suits may be prosecuted on the bonds of executors, administrators and officers.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be competent for any person injured by the misconduct of an executor, administrator or officer, within this State, to obtain from the person holding the bond executed by such executor, administrator or officer, a certified copy thereof; on which copy, the person so injured may institute and carry on, in the name of the obligee of such bond, for the use of the person so suing, an action of debt against such executor, administrator or officer, and his securities, in any court having proper jurisdiction, and recover judgment for the amount of the bond: on which judgment, an execution may issue for such sum as it may be ascertained will be sufficient to indemnify the person so suing: *Provided,* That in no case shall the obligee of the bond be responsible for costs: but in case judgment should be rendered in favor of the defendant, cost shall be taxed and recovered against the person for whose use the suit was commenced.

Suits may be sustained on copies in name of obligee for use of party injured

Sec. 2. That it shall be lawful for any other person injured as aforesaid, to proceed by scire facias, in such judgment, until the amount thereof be exhausted: *Provided,* That the plaintiff shall always set forth the breach or breaches on which he may intend relying to support his suit: *And provided, also,* That nothing in this act shall be so construed, as to prohibit such executor, administrator or officer, and his securities, from pleading any matter which may be pertinent to their defence.

Any person injured may proceed by scire facias

MATTHIAS CORWIN,

Speaker of the House of Representatives.

PETER HITCHCOCK,

Speaker of the Senate.

February 23, 1816.

AN ACT establishing boards of county commissioners.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be established in each organized county in this State, a board of commissioners, to consist of three persons, to be elected by the qualified electors thereof, at the annual election in October; who shall hold their offices for three years, except as hereinafter provided: and are hereby authorized and empowered to do and perform all such duties as now are, or hereafter may be, required of them by law.

Board of county commissioners to consist of three and be elected triennially

Sec. 2. That the commissioners first elected in any new county in this State, shall hold their office for the term of one, two and three years; to be by them determined by lot, at their first session.

In new counties, term of service to be determined by lot

Sec. 3. That whenever it becomes necessary to elect a commissioner to fill any vacancy occasioned by death, resignation or

Commissioners elected to fill a

vacancy shall hold, etc.

removal, the person elected shall hold his office for the unexpired period for which his predecessor was elected, and until his successor is elected and qualified.

When necessary to fill a vacancy before the annual election, the associate judges may appoint

Sec. 4. That whenever there shall be a vacancy in the office of county commissioner, from any cause other than the expiration of the term for which he was elected, and the interest of the county shall require such vacancy to be filled before the next annual election, the associate judges, or a majority of them, shall meet at the seat of justice of the county, and appoint one or more commissioners, (as the case may require:) who shall continue in office until the next annual election, and until the commissioner or commissioners then elected shall be qualified, and no longer: and the absence of any commissioner from the county for six months in succession, shall be deemed a resignation of the office.

Term of office of those heretofore elected not affected hereby

Sec. 5. That nothing in this act shall be so construed as to affect the term of office of any commissioner heretofore elected and qualified.

Commissioners to take an oath and deposit a certificate thereof with the auditor

Sec. 6. That before any commissioner shall enter upon the duties of his office, he shall take an oath or affirmation, before some person authorized to administer the same, faithfully and impartially to discharge the duties of a commissioner of the county in which he resides; and deposit a certificate thereof with the auditor of the county, to be by him filed and carefully preserved.

May sue and be sued

Sec. 7. That the board of commissioners, in the several counties of this State, shall be capable of suing and being sued, pleading and being impleaded, in any court of judicature within this State: and they are hereby authorized and required, to ask, demand and recover, by suit or otherwise, any sum or sums of money or other property, due to such county on account of advances made by them on any contract with any person or persons for the erection or repairs of any public buildings or bridges, or any other contract which, by the provisions of this act, they are authorized to enter into; and, in like manner, to sue for, and recover in money, the value or amount of any labor or article of value, subscribed, instead of money, to aid in erecting or repairing public buildings or bridges, where such labor or article of value, upon their requisition, shall not have been performed, delivered or paid in a reasonable time: and the money so recovered, in either of the above cases, shall be by them paid into the treasury of the county; and they shall take the treasurer's receipt, and file the same with the auditor of the county.

Shall hold three sessions annually

Sec. 8. That the board of commissioners shall hold three sessions annually, at the seat of justice in their respective counties, commencing on the first Mondays of March, June and December; at all of which they shall transact any business which now is, or hereafter may be, required of them by law.

Their duty at the June session

Sec. 9. That, at the June session, the commissioners shall examine and compare the accounts and vouchers of the county

auditor and treasurer, count the funds in the treasury, and direct the auditor to publish an exhibit of the receipts and expenditures for the past year.

Sec. 10. That the commissioners, at any of their stated sessions, or at any extra session which they are hereby authorized to hold for the purpose, may make any necessary order or contract in relation to the building, finishing, furnishing or repairing the public buildings, poor houses or bridges, the improvement of or inclosure of the public grounds, the maintenance and support of idiots or lunatics, or the expenditure of the three per cent. fund, within their counties.

At any session they may make contracts in relation to the public buildings, &c.

Sec. 11. That the county commissioners be, and they are hereby authorized to empower the county auditors of their respective counties to contract for the making of such repairs or improvements on the public buildings, or public grounds of their counties, as may be necessary: *Provided*, The costs of such repairs or improvements shall not exceed fifty dollars.

Commissioners may authorize the auditor to contract for repairs, the costs not exceeding \$50

Sec. 12. That the commissioners of the respective counties shall have power to compound for, or release, in whole or in part, any debt, fine or amercement, due to their county and for the use thereof, when in their opinion the interest of such county will not be prejudiced thereby; except in cases where they, or either or them, are personally interested.

Commissioners may compound for, or release any debt, fine, &c. due to the county

Sec. 13. That no commissioner shall, directly or indirectly, as contractor, be concerned in any contract for work to be done, or materials to be furnished, for the county, under the penalty of one hundred dollars; to be recovered by an action of debt, for the use of the county: and such commissioner shall, moreover, forfeit any compensation he was to receive on such contract; any thing in the same to the contrary notwithstanding.

Commissioner shall not be concerned in any contract for the county, under penalty of \$100

Sec. 14. That the commissioners, or either of them, are hereby authorized and empowered to administer all oaths or affirmations, necessary in discharging the duties of their respective offices.

Commissioners may administer oaths

Sec. 15. That, until proper buildings are erected at the place fixed on for the permanent seat of justice in any county, it shall be the duty of the county commissioners to provide some suitable place for holding the courts of such county.

They shall provide a place for holding courts until buildings are erected

Sec. 16. That if any person or persons shall conceive him, her or themselves aggrieved by the decision of the commissioners, in any case, such person or persons may, within fifteen days thereafter, appeal to the next court of common pleas, notifying the commissioners of such appeal, at least ten days before the time of trial; which notice shall be in writing, and delivered personally to the commissioners, or left with the auditor of the county: and the said court shall, at their next session, hear and determine the same; which decision shall be final.

Appeals may be taken from the decision of the commissioners to the common pleas

Sec. 17. That if any commissioner shall be guilty of any misconduct in office, he shall, on conviction thereof, by indictment

Commissioner convicted on indictment

dictment for misconduct in office, shall be removed and fined

ment, before the court of common pleas of the proper county, be immediately removed from office, and fined at the discretion of said court, in any sum not exceeding four hundred dollars, with costs; which fine shall be paid into the county treasury, for the use of the county.

County commissioners may appoint road commissioners to fill vacancy

Sec. 18. That whenever any commissioner, appointed by the Legislature of the State, to do or perform any duty in relation to State roads, shall die, remove from the county where he resided at the time of his appointment, or refuse to serve, the county commissioners of the proper county shall, when required so to do, meet and appoint a person to fill said vacancy.

Acts repealed

Sec. 19. That the act, entitled "An act establishing boards of commissioners," passed twenty-fifth of February, eighteen hundred and twenty-four; and the act to amend the same, passed January twenty-eighth, eighteen hundred and twenty-five; and all other acts heretofore passed on that subject; be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 5, 1831.

AN ACT for the election of county assessors.

County assessor to be elected biennially

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be elected on the second Tuesday in October, biennially, by the qualified electors in each organized county in this State, one county assessor for each county, who shall hold his office for two years from the day of his election, and until his successor is elected and qualified; and shall do and perform all such duties as now are, or hereafter shall be required of him by law.

Shall give bond and security and take an oath, to be indorsed on the bond

Sec. 2. That the county assessor, previous to entering on the duties of his office, shall give bond, with two or more freeholders, to the acceptance of the county commissioners, in the penal sum of two thousand dollars, payable to the State of Ohio, and conditioned for the faithful and impartial discharge of the duties of his office according to law: and shall take and subscribe an oath or affirmation, to be indorsed on his bond, that he will faithfully and impartially discharge the duties of his said office to the best of his skill and ability; and the bond so indorsed shall be deposited with the county treasurer, and by him carefully preserved.

Sec. 3. That if any county assessor shall not give bond and

security, or shall not take the oath or affirmation, as required in the preceding section, on or before the first Monday of December next after his election, his office shall be considered vacant.

Sec. 4. That in all cases where the office of county assessor shall become vacant by death, removal from the county, resignation, failure to give bond, or from any other cause, and the interest of the county requires that such vacancy should be filled previous to the next annual election, the county commissioners of the proper county shall appoint some suitable person, having the qualification of an elector, and residing within such county, to fill the vacancy; and if necessary, the commissioners may hold a special meeting for that purpose.

Sec. 5. That the person appointed to fill such vacancy shall give bond, and take an oath or affirmation, as required in the second section of this act, and shall hold his office until the next annual election, and until his successor is elected and qualified.

Sec. 6. That whenever the commissioners of any county shall be of opinion that the county assessor will be unable to perform all the duties required of him within the time specified by law for the performance thereof, the assessor may, with the approbation of the commissioners, appoint one or more deputies to assist in the performance of the duties of his office.

Sec. 7. That each deputy assessor shall be sworn or affirmed faithfully and impartially to discharge the duties of his appointment, and may do and perform any duty required of his principal, except making a valuation of lands and town lots, and serving as a member of the board of equalization; and the principal shall be liable for all the misconduct in office of his deputy or deputies.

Sec. 8. That each county assessor and deputy assessor, shall, at the end of each week in which he shall have been engaged in the performance of any of the duties required of him by law, enter an account in writing of the number of days or parts of days he may have been so engaged during the week; and at some stated meeting of the county commissioners, shall present such original account to said commissioners, and shall testify, under oath or affirmation, to the accuracy of such account, and shall answer such questions, respecting the same, as may be put to him by the commissioners.

Sec. 9. That the assessor and deputy assessor shall each be allowed the sum of one dollar and fifty cents for each day that the county commissioners shall be satisfied they shall have been respectively employed in the discharge of the duties required of them by law.

Sec. 10. That suit may be instituted on the bond given by the assessor, in the name of the State of Ohio, either for the use of the State, county or any person injured by the misconduct in

Failure to give bond, or to take the oath, shall vacate the office

When necessary to fill a vacancy previous to the annual election, the county commissioners may appoint

Person appointed to fill vacancy must give bond, and be sworn as aforesaid

Assessors may appoint deputies with the approbation of the commissioners

Deputies must also be sworn

Assessors and their deputies to keep a weekly account of the time spent in the performance of their duties, and render the same to commissioners under oath

Their compensation

Suit may be instituted on assessor's bond by party injured

office of the assessor or his deputy, or by the omission of any duty enjoined on him by law.

Acts repealed

Sec. 11. That the act, entitled "An act providing for the election of county assessors," passed January 16th, 1827; and the act, entitled "An act relating to the duty of county assessors," passed February 10th, 1829; be, and the same are hereby repealed: *Provided*, That the assessors now in office shall continue to hold their respective offices for the same term as if the acts under which they were elected were not repealed; and none of the obligations or liabilities by them incurred, shall be affected by the repeal of said acts.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 12, 1831.

AN ACT pointing out the mode of levying taxes.

What property
subject to tax-
ation

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That all lands, the property of individuals or bodies corporate or politic; all in-lots or out-lots in towns or villages, with the dwelling houses, store houses, ware houses, shops, offices, and livery stables thereon; and all dwelling houses, store houses, ware houses, shops, offices and livery stables erected on any lot or lots in towns laid out on lands granted by Congress for the use of schools, colleges, or for religious purposes, the property of individuals, bodies politic or corporate; all dwelling houses of and above the value of two hundred dollars, other than those erected on in-lots or out-lots in any town or village as aforesaid; all capital employed in merchandise and by exchange brokers in this State; all grist, oil and saw mills; all manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper foundries; all money loaned at interest; all stocks or capital invested in steam-boats; all pleasure carriages, with two or four wheels; all horses, mules, asses and neat cattle, of three years old and upwards, (excepting such as are hereinafter excepted;) shall be subject to tax, yearly and every year—to be levied and collected agreeably to law.

What property
exempted from
taxation

Sec. 2. All tracts of land, with the improvements thereon, not exceeding ten acres, the title of which is vested in any trustee or trustees, body corporate or politic, for the use of, and in trust for, any religious society, and occupied by such society for the use of a meeting house or burying ground; all lots of land or ground set apart for school houses, academies or colleges, with the buildings thereon occupied for those purpo-

ves; and all lands, the property of any such academy, or other seminary of learning, which now is, or may hereafter be, established in this State, including all lands granted by Congress for the use of schools, academies, colleges and for religious purposes; (but the buildings, or any of them, not occupied for literary purposes, may be taxed;) all lands owned by any county in this State, and set apart for the use and support of the poor in such county, not exceeding two hundred acres, and the buildings erected for the accommodation of the poor; all lots of ground with the buildings, set apart and occupied as a charitable hospital; all public grounds and buildings, set apart for public purposes, in any township or recorded town plat; all lands and lots belonging to the State of Ohio; all lands sold by Congress, for the term of five years after the day of sale; are hereby exempted from taxation.

Sec. 3. Every person within this State, trading or dealing in foreign or domestic goods, wares, merchandise, jewelry, drugs or medicines, whether the owner or owners thereof reside within this State or elsewhere, shall be deemed a merchant; and with every exchange broker, shall be entered on the grand list for taxation as such, and shall be taxed or assessed according to the value of the stock in trade used or employed by such merchants or exchange brokers respectively: *Provided*, That no person shall be entered on the grand list for taxation, or be taxed or assessed as a merchant, who shall deal exclusively in goods, wares and merchandise of the growth or manufacture of this State, or any article or articles for which goods, wares and merchandise may have been bartered or exchanged by such person, unless the amount of his or her stock in trade, shall be two hundred dollars or upwards; nor shall any person, be so taxed or assessed, for selling any articles cultivated, grown or manufactured by him, her or them, within this State.

Capital of merchants and exchange brokers, to be listed for taxation

Proviso, in relation to articles grown or manufactured in this State

Sec. 4. The assessor of each county shall, on or before the first Monday in June, annually, make a correct list of all merchants and exchange brokers, trading or doing business within said county, on the first day of March preceding; and shall place opposite to the name of each of them, respectively, the amount of capital by them employed, as near as the same can be ascertained by the assessor, and in case of doubt, by the oath of the party, his or their clerk or agent; and shall place the same on the grand list for taxation, according to the provisions of this act.

Assessor to list merchants and exchange brokers, and assess their capital annually

Sec. 5. That when any person shall commence merchandising in any county, after the first day of March, in any year, and the amount of his capital is not entered on the assessor's list for taxation, such person shall report under oath to the auditor of such county, the amount of capital by him employed; and shall pay into the county treasury, for the use of the county, a sum which shall bear the same proportion to one per cent. on the amount of the capital so employed, as the time from the

Person commencing merchandising after the first day of March, must report the amount of his capital, to the county auditor, and pay into the county treasury, at the rate of one

per cent. per annum day on which he shall commence merchandising as aforesaid, to the first day of March next succeeding, shall bear to one year.

Sec. 6. That if any person shall commence merchandising as aforesaid, and shall not, within one month thereafter, report to the county auditor the amount of his capital, and make payment to the county treasurer, as required in the preceding section, he shall forfeit and pay the sum of three per cent. on the capital so by him employed; to be ascertained as near as may be by the testimony of witnesses, and recovered by an action of debt, in the name of the county treasurer for the use of the county, before any justice of the peace or court having jurisdiction thereof.

Person neglecting to report his capital and make payment as aforesaid, shall forfeit three per cent. on the capital so employed, to be collected by the county treasurer

Sec. 7. The assessor, between the first day of March and the twenty-fifth day of May, in the year eighteen hundred and thirty-two, shall call upon each and every person resident in his county, for a list of all grist, oil and saw mills; manufactories of iron, glass, paper, clocks and nails; founderies of iron, brass and copper; distilleries, breweries and tanneries, of which such person may be the owner, in part or in whole; carefully designating the quantity of interest such person has in the same: and also the amount of money which the said person has loaned at interest, on notes, bonds, single bills or mortgages, due or to become due, over and above the amount for which the same person is bound to pay interest; also, all stock or capital in steam boats; all pleasure carriages with two or four wheels: and the assessor shall make a true valuation thereof in money, according to the provisions of this act.

Duty of assessors in listing property in the year 1832

Sec. 8. The assessor annually thereafter, between the first day of March and twenty-fifth day of May, shall list from every person, any or all of the before mentioned subjects of taxation, which may have been erected, built, put into operation, owned, possessed or become liable to taxation, since the last inlistment and valuation; and he shall make a true valuation thereof in money, according to the provisions of this act: and he shall also list all horses, mules or asses, (except licensed stud horses,) and neat cattle of three years [old] or upwards, or which shall become three years old by the first of June succeeding the inlistment, owned or possessed by any person on the first day of March annually.

Their duty annually thereafter

Sec. 9. The assessor, annually, between the first day of March and the twenty-fifth day of May, shall call upon each and every person resident in his county, for a list of all lands, or town in-lots and out-lots, which may be subject to taxation, and which have not been previously entered on the proper list and valued; and the assessor shall also take a list of all in-lots and out lots in any town or village, which may have been laid out agreeably to law, subsequent to taking the former lists in the county: and he shall note the quantity and description of land on which such town is laid out, and estimate what proportion of the value of the tract of land in which said town is

Duty of assessor in listing lands and town lots not previously listed and erected subsequent to last inlistment, &c.

laid out, ought to be deducted therefrom: said assessor shall also take a list of all buildings subject to taxation, which may have been erected on any town or village in-lot or out-lot; also, of all houses over the value of two hundred dollars, within his county, erected subsequent to the last inlistment: he shall also note all houses and buildings which stand on the grand levy, and which have been destroyed in any manner; and he shall make a true valuation of these different species of property, in money, according to the provisions of this act.

Sec. 10. The list given by the owner or owners, or taken by the assessor aforesaid, shall particularly set forth the name of the owner or owners; the number of acres of land in each particular tract, lot, section or subdivision thereof; the range, township, section, quarter section, tract, lot or part thereof; or the number of entry, location or survey, and water course, as the nature of the general or particular survey may require; so as to designate and identify the same: and in the Virginia Military District, shall also set forth the name of the original proprietor, the quantity of land contained in the original tract, of which the tract listed is a part or subdivision; also, all town in lots and out-lots owned or held as aforesaid, with the number thereof, as described on the recorded plan of said town, or the parts thereof, if it has been subdivided: also, all dwelling houses, store houses, ware houses, shops, offices and livery stables, erected on lots laid out on school and college lands, and those granted for religious purposes by Congress: also, the number of dwelling houses of the value of two hundred dollars and upwards, other than those erected on in or out lots within such county: also, the number [of] grist, oil and saw mills; manufactories of iron, glass, paper, clocks and nails: also, the number of iron, brass and-copper founderies: also, the number of distilleries, breweries and tanneries: also, the amount of moneys at interest in the manner prescribed in the fourth section; the amount of stock or capital in steam-boats; all pleasure carriages with two or four wheels; the number of horses, mules, asses and neat cattle, (except licensed stud horses) owned or possessed by such person or persons, or bodies corporate or politic.

What particular parts shall be set forth in the list

Sec. 11. If any tract of land, town in-lot or out-lot, shall be owned by different persons in severalty, tenancy in common, or coparcenary, either of them may list his, her or their respective share or shares, or all may together, as they deem expedient; in which case, such tenancy shall be noted on the list, and the whole quantity of land or lot shall also be noted.

Owners of lands may list their shares separately or together

Sec. 12. If the owner or owners of any of the capital employed, or other articles of property made taxable by law, shall be absent or unable to give in a list, when called upon by the assessor, it shall be the duty of the assessor to make a list thereof, from the best information he can obtain; therein describing the several pieces of property, according to the re-

If the owner of property be absent, &c. the assessor shall list from information

quisitions of this act, and note the fact of such taking on said list.

Sec. 13. If the owner or owners of capital employed, or other property made taxable by this act, shall make out and deliver, by the twenty fifth day of May, (after being called upon, and being either absent or unable to give a list) to such assessor, a correct list of his property, in the manner prescribed in this act; the assessor shall receive the same, and correct his valuation thereby, if necessary.

If owner makes list by 25th of May, the assessor shall correct his list thereby

Sec. 14. If the owner or owners of property do not reside within the county wherein the same is situated, and shall neglect to furnish the assessor with a list of the same, as herein required, by the twenty-fifth day of April, annually, the assessor shall make a list thereof, from the best information he can obtain; and if the owner be unknown, then the property shall be listed, and it shall be noted in the column of names that the owner is unknown.

Duty of assessor when the owner of property is a non resident, or is unknown

Sec. 15. If any person resident in the county, shall refuse to give a list of his or her capital employed, or other property, when called upon by the assessor, or shall fraudulently omit to give in any part of his or her capital or property, herein before required to be listed, the assessor shall take a list [of] such person's capital employed, or other property thus refused or omitted to be listed, from the best information he can obtain; and he shall distinctly note the list so taken in either of these cases, and shall notify such person to attend the board of equalization of such county: and if the person failing, refusing, or omitting to give a correct list as aforesaid, shall not satisfy the board of equalization of his innocence in the premises, they shall order the property so refused or fraudulently omitted to be listed, to be taxed threefold the proper taxes; to be collected as other taxes: but if the refusal is excused for good cause, or the fraudulent intention in omission is removed, they shall order the property to be taxed as other property of like description.

Duty of assessor when the owner refuses to give a list, or fraudulently omits a part

Such person failing to satisfy the board of equalization of his innocence, may be taxed three fold

Sec. 16. The said assessor shall, annually, before the first Monday in June, make a true valuation in money of all property made liable to taxation by law, which has not been listed and valued, and insert such valuation in the proper column in his list.

Mode of valuing lands

1st. All lands shall be valued at their true value in money, taking into consideration the fertility and quality of the soil, the vicinity of the same to public roads, towns or villages, navigable rivers, water privileges on the same, or location and rout of canal or canals, with any other local advantages of situation, having no reference to the value of the improvements—upon actual view of the premises.

Town lots

2. In-lots and out-lots in all towns and villages, with all dwelling houses, ware houses, store houses, shops, offices and livery stables thereon erected, shall be valued at their true value in money, taking into consideration all the local advantages of situation—upon actual view of the premises.

3. All dwelling houses (over the value of two hundred dollars,) erected elsewhere than on in-lots and out-lots in towns or villages, and all dwelling houses, store houses, ware houses, shops, offices and livery stables, erected on any lots or lands granted by Congress for the use of schools, colleges, and for religious purposes, shall be valued at the true value thereof in money, all local advantages of situation considered—upon actual view of the premises. Buildings

4. All grist mills, oil mills, saw mills, manufactories of iron, glass, paper, clocks and nails; all distilleries, breweries and tanneries; all iron, brass and copper founderies, with their improvements; shall be valued at their true value in money, with respect to situation and present income—upon view, and the best means of information. Mills, &c.

5. All moneys loaned at interest on notes, bonds, single bills or mortgages, over and above the amount on which the said person pays interest, shall be valued and assessed as so much capital—upon the statement of the person, under oath. Money at int's rest

6. All stock or interest in steam-boats, shall be valued at the true value thereof in money—upon the statement of the owner under oath. Stock in steam boats

7. All pleasure carriages, with two or four wheels, shall be valued at their true value in money—upon view. Pleasure carriages

8. All horses, mules and asses, shall be valued, without view, at forty dollars each; all neat cattle, at eight dollars each: *Provided*, That when an individual has no other taxable property, such person shall be entitled to hold one cow free from taxation: *Provided also*, That the assessor may require any person to give in his property made taxable by this act, under oath or affirmation. Horses and cattle
One cow exempted
Assessor may require any person to give his list under oath

Sec. 17. The assessor is hereby authorized to administer all oaths which may be necessary in the performance of his duty, according to the provisions of this act. Assessor may administer oaths

Sec. 18. The assessor of each county, before the first Monday in June, annually, shall make out, from the lists taken as before provided, an abstract thereof; and shall distribute the same under the head of the respective townships wherein the several articles listed shall be subject to taxation, together with the valuation thereof, to wit: All lands, lots and houses, mills, manufactories, founderies, distilleries, breweries, tanneries, in the township where the same may be situated; all other property, under the head of the township where the owner may reside; and if any tract of land lying in the Virginia Military District shall be divided by any township line, such tract shall be placed under the head of that township in which the greater part thereof lies; and such whole tract shall be subject to a township tax, for the use of the township in which it is set down, until the same shall be aperted at or near the township line, when it shall be listed in the respective proper townships; which said abstract the assessor shall deliver to the county au- Assessor shall make an abstract of his lists before the first Monday in June annually, and deliver the same, with original, to the county auditor

ditor, with the original lists taken by him, on or before the first Monday in June, annually.

County commissioners, auditor, and assessor, shall form a board of equalization, and meet on first Monday of June

Sec. 19. The county commissioner, auditor and assessor, shall meet at the seat of justice of each county, on the first Monday of June, annually; who shall have power to hear and determine the complaint of any owner of property listed and valued by the assessor subsequent to the preceding first day of March; and shall correct any list or valuation, as they shall deem proper; and shall have power to equalize the valuation made by the assessor, either by adding to, or deducting from his valuation, such sum as to them, or a majority of them, shall appear just and equitable.

The per centum to be charged on the grand levy for State purposes, to be fixed by law.

Sec. 20. All taxes necessary for the support of government of this State, shall be assessed on the grand levy of articles enumerated in this act, in an equal and ratable proportion, in manner following, viz: The per centum necessary to be charged on the dollar, on said grand levy, for State expenditures, shall be fixed, from time to time, by law: The county commissioners of each county shall, at their annual meeting in June, determine the per centum necessary to be levied for the expenses of their respective counties, and also for road purposes, when necessary; limited as hereinafter provided: The trustees of the respective townships in each county, shall determine the per centum to be levied of the valuation in their respective townships, for township purposes, and support of the poor in such township; which determination shall be made before the first day of June, and shall be certified by the trustees, or a majority of them, and the certificate thereof delivered to the auditor of such county, on or before the first Monday in June, annually; which tax, levied by township trustees, shall never exceed one mill of the dollar on the valuation of such township.

For county purposes, by the commissioners.

For township purposes, by the trustees of townships, not exceeding one mill on the dollar

Lien of the State for taxes, attaches to real estate on first day of March, and is perpetual

Sec. 21. The lien of the State for all taxes, for State, county, school, road or township purposes, shall attach on all real estate, on the first day of March, annually: and such lien shall be perpetual, for the amount of all taxes which heretofore have accrued, or which may hereafter accrue, with the interest and penalties in each case, until such taxes, interest and penalties shall be fully paid; which lien shall in no wise be affected or destroyed by any sale or transfer of any such real estate.

Restrictions relative to amount of county or road tax which may be levied in any one year

Sec. 22. The commissioners of any county shall not levy, in any one year, a greater amount of county or road tax than is herein specified, viz: When the aggregate amount of taxable property entered upon the list shall be two millions or more, the tax to be levied for county purposes shall not exceed one and one half mills upon the dollar; and when such amount of valuation shall be one million five hundred thousand dollars or more, and less than two millions, the tax to be levied for county purposes shall not exceed two mills upon the dollar; and when such amount of valuation shall be one million, and less than one

million five hundred thousand dollars, such tax shall not exceed two and a half mills upon the dollar; and when such amount of valuation shall be five hundred thousand, and less than one million of dollars, such tax shall not exceed three mills upon the dollar; and when such amount of valuation shall be less than five hundred thousand dollars, such tax shall not exceed five mills upon the dollar: and the road tax shall not exceed one mill upon the dollar, when the aggregate valuation shall be one million five hundred thousand dollars or more; and when it is less than one million five hundred thousand dollars, the road tax shall not exceed three mills upon the dollar of such valuation.

Sec. 23. Whenever a greater amount of tax shall be necessary in any county than the foregoing rates will respectively afford, for the purpose of erecting public buildings, or paying for such buildings already erected, or for the payment of any debt already contracted for county purposes, the commissioners may add to the rate of taxation for such county, not exceeding fifty per cent.; which additional tax shall be exclusively appropriated to the purposes for which it was raised.

When a greater amount is necessary for the erection of buildings or payment of debts, the commissioners may add not exceeding fifty per cent

Sec. 24. Every person, body politic or corporate, shall be bound to list, and shall stand chargeable with tax, on all personal property subject to taxation by law, owned or possessed on the first day of March, annually; and if the county treasurer, or other person appointed to collect the taxes, cannot in any one year collect the tax charged upon said property, the same shall remain as a debt against such person, body politic or corporate, and, with legal interest thereon, may be collected at any time thereafter, by the said treasurer or other person appointed to collect the taxes, in the same manner that he is authorized by law to collect other taxes in other cases.

Every person bound to list property owned on the first day of March, and taxes shall remain a debt against the person if not paid

Sec. 25. The personal property of any deceased person shall be liable, in the hands of any executor or administrator, for any tax due on the same by any testator or intestate.

Personal property in the hands of administrator, &c. liable for tax against decedent

Sec. 26. Any non-resident of the State, or other person, charged with tax on any land or town lot, situate in any other county than the one in which such person may reside, may pay such tax into the [State] treasury, at any time after the auditor of State shall have received the duplicate thereof, from the proper county auditor, to wit: When any such land or town lot shall have been delinquent, and advertised for sale, on the last Monday in December of the current year, payment of the tax, interest and penalty due thereon, shall be made on or before the first Monday of December; and in other cases, payment of the taxes of the current year may be made on or before the last day of December.

Non-residents may pay taxes into State treasury

Sec. 27. That the act, entitled "An act establishing an equitable mode of levying the taxes of this State," passed February third, eighteen hundred and twenty-five; the act, entitled "An act to amend the act, entitled 'An act establishing an equitable mode of levying the taxes of this State,'" passed January se-

Acts repealed

venteenth, eighteen hundred and twenty-six; the act, entitled "An act supplementary to 'An act establishing an equitable mode of levying the taxes of this State, and for other purposes,'" passed January thirty-first, eighteen hundred and twenty-seven; the act, entitled "An act to amend an act, entitled 'An act establishing an equitable mode of levying the taxes of this State,'" passed February twelve, eighteen hundred and twenty-eight; the act, entitled "An act further to amend 'An act establishing an equitable mode of levying the taxes of this State,'" passed February seven, eighteen hundred and twenty-nine; and the act supplementary to the last named act, passed February twenty second, eighteen hundred and thirty; be, and the same are hereby repealed: *Provided*, That no right vested, act done, obligation or liability incurred under any of the provisions of said acts, shall be in any wise affected or impaired by the repeal thereof; nor shall any thing in this act contained be construed to authorize a revaluation of any land or town lot already valued and listed for taxation.

This act to take effect and be in force from and after the first day of March, eighteen hundred and thirty-two.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14, 1831.

AN ACT prescribing the duties of county auditors.

County auditor
to be elected
biennially

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be elected by the qualified electors of each organized county in this State, on the second Tuesday in October, biennially, one county auditor for each county, who shall hold his office for two years from the first day of March next succeeding his election, and until his successor is elected and qualified; and shall keep his office at the seat of justice of his county.

To give bond and
be sworn

Oath to be in-
dorsed on bond,
and the bond
deposited with
county treasurer

Sec. 2. That the county auditor, previous to entering on the duties of his office, shall give bond with two or more securities, to the acceptance of the county commissioners of the proper county, in the penal sum of two thousand dollars, payable to the State of Ohio, and conditioned for the faithful discharge of the duties of his office; and shall also take and subscribe an oath or affirmation, to be indorsed on said bond, that he will faithfully and impartially discharge the duties of his office to the best of his skill and ability: which bond, so indorsed, shall be deposited with the county treasurer, and be by him carefully preserved.

Suit may be in-
stituted on the

Sec. 3. That suit may be instituted on such bond, against the county auditor and his securities, in the name of the State

of Ohio, and for the use of the State, county, or any party or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law. bond for the use of the party injured

Sec. 4. That if any person elected to the office of county auditor, shall not give bond, and take the oath or affirmation, as required in the second section of this act, on or before the first day of March next after his election, the office shall be considered vacant. Failure to give bond, &c., shall vacate the office

Sec. 5. That when a vacancy shall happen in the office of county auditor, either from death, removal out of the county, resignation, failure to give bond, or from any other cause, the county commissioners of the proper county shall appoint some suitable person to fill such vacancy; and the person so appointed shall give bond, and take and subscribe an oath or affirmation, as required in the second section of this act, and shall hold his office for the remainder of the term for which his predecessor was elected or appointed, and until his successor is elected and qualified. Vacancies to be filled by county commissioners; and the person appointed shall give bond &c. as aforesaid

Sec. 6. That when any county auditor, having no deputy, shall be unable by reason of sickness, to perform the duties of his office, within the time specified by law for their performance, or when both the auditor and his deputy shall be so disabled by sickness, the county commissioners of the proper county shall appoint some suitable person to do and perform the duties of county auditor during such disability; and may require of the person so appointed, such bond and security for the faithful discharge of the duties of his appointment, as they shall deem expedient. Commissioners may appoint person to officiate as auditor during the disability of the auditor

Sec. 7. That no judge of the supreme court, or of the court of common pleas, or clerk of either of said courts, county commissioner, or county treasurer, shall be eligible to the office of county auditor. Who shall not be eligible to the office of auditor

Sec. 8. That the county auditors and their deputies, are hereby authorized to administer any oath or affirmation, rendered necessary to the performance of any of the duties of their respective offices. Auditors and their deputies may administer oaths

Sec. 9. That the county auditor shall, by virtue of his office, be clerk to the board of county commissioners of his county, and shall keep an accurate record of all their corporate proceedings, and shall carefully preserve all the documents, books, records, maps, and other papers, required to be deposited or kept in his office. Auditor shall be clerk to the commissioners, and keep a record of their proceedings &c.

Sec. 10. That each county auditor, on going out of office, shall deliver up to his successor in office, all the books, records, maps, documents, papers, and other property in his hands, belonging to the county; and in case of the death of any county auditor, his personal representatives shall, in like manner, deliver up all such books, records, maps, documents, and other property. Auditor shall deliver books, maps &c., to his successor in office

Sec. 11. That the county auditor shall keep an accurate

Auditor to keep account current, with the treasurer of his county; and when any person shall deposit with the auditor any receipt given by the treasurer, for any money paid into the treasury, the auditor shall file such receipt in his office, and shall charge the treasurer with the amount thereof.

His duty in auditing claims against the county, and issuing orders on the treasury

Sec. 12. That all accounts, debts and demands, justly chargeable against any county, and which are not directed by law to be settled and allowed by some other person or tribunal, shall be examined and settled by the auditor of such county; and for all such just accounts, debts and demands, settled and allowed by the auditor, or settled and allowed by any other person or tribunal, authorized by law so to do, and for all demands against such county, the amount of which is fixed by law, the county auditor shall issue orders on the treasury of such county, payable to the several persons entitled thereto: and all such orders shall be progressively numbered, and the number, date, and amount of each, and the name of the person to whom payable, shall, at the time of issuing the same, be entered in a book, to be kept by the auditor for that purpose.

To furnish the assessor annually with a schedule of lands and lots subject to taxation, and not before listed

Sec. 13. That the county auditor shall, annually, on or before the first day of March, make out and deliver to the assessor of his county, on demand, a schedule of all lands and town lots within his county, which are found, from his knowledge, or from the certificate of the auditor of State, to have become subject to taxation, and which have not been assessed for that purpose, directing such assessor to assess the same, and make return thereof to him on or before the first day of June next succeeding.

His duty in making transfers

Sec. 14. That when an alteration of any list entered on the grand levy, may become necessary by reason of the partition of any tract of land or town lot, the county auditor, on receiving information thereof, shall transfer to the several parties in partition, the portion set apart to him, her, or them, particularly describing the parts so transferred; and shall apportion and transfer the valuation of such land or lot, to the several parties, in proportion to their respective interests therein, previous to such partition.

The subject of transfers continued

Sec. 15. That when any county auditor shall be satisfied, that the transfer of any land or town lot, or of any part thereof, has become necessary by reason of a sale thereof, or any part thereof, for taxes, a sale by a sheriff or other officer, by virtue of an execution, order of court, or decree in chancery, or by reason of a devise or descent; he shall make such transfer: and in such case, if a part only of the tract of land or town lot shall be transferred, the proportion of the valuation to be transferred therewith shall be ascertained by the county assessor; and for that purpose, the auditor shall furnish the assessor with a list of such lands and lots, at the time specified in the thirteenth section of this act, for delivering the schedule therein named.

Sec. 16. That when the transfer of any land or town lot,

or any part thereof, shall become necessary by reason of a sale or conveyance by deed, such transfer shall be made by the county auditor, whenever the seller and purchaser shall agree thereto before the auditor, and shall agree upon the amount of valuation to be transferred, when less than the whole, or when either party shall produce to said auditor an agreement in writing authorizing such transfer, and signed by the parties: *Provided*, That if the county auditor shall be satisfied that the proportion of the valuation so agreed to be transferred, is greater than the proportional value of the land or lot to be transferred therewith, and that such agreement was made by collusion of the parties, and with a view fraudulently to evade the payment of any taxes, which might be legally assessed on the entire tract or lot, he may refuse to make such transfer; and where any such transfer has already been procured by such fraudulent agreement, the same shall be cancelled by the auditor, and the land or lot so transferred shall be charged with taxes in the same manner as though such transfer had not been made.

Transfers continued

Auditor shall cancel transfers fraudulently procured

Sec. 17. That the county auditor, in order to the performance of the duties herein required of him, shall, at all reasonable times, have a right to examine the records of deeds in his county free from charge.

County auditors may examine records of deeds free from charge

Sec. 18. That the county auditor of each county shall, annually, between the first Monday in June, and the fifteenth day of August, make out a duplicate of taxes assessed in such county, according to the forms which shall be furnished him by the auditor of State: and in so doing, he shall enter, first, all the lands in each township, with the names of the owners, in alphabetical order; next, in like order, he shall enter all town in-lots and out-lots, with the improvements thereon, situate in such township; and in the third place, all pleasure carriages, horses, mules, asses, neat cattle, money at interest, and the capital of merchants and exchange brokers, in like alphabetical order, and which shall be charged in the township where the owners reside: and he shall number each organized township in regular progression, as the same shall stand entered on his duplicate, and the same township shall retain the same number from year to year.

Duty of auditor in making duplicate of taxes

Sec. 19. That the auditor, in making out such duplicate, shall be careful to enter thereon all the lands and town lots previously entered for taxation, with the valuation thereof, as heretofore assessed; and all such lands and town lots, as by mistake or neglect shall have been previously omitted to be entered on the tax duplicates: also, all such lands and town lots as shall be found to have become subject to taxation, as provided in the thirteenth section of this act, with such valuation as shall be affixed thereto by the county assessor: and he shall enter the chattel property according to the list of the assessor, returned next previous to the making of such duplicate, giving a pertinent description to all property thus entered on his du-

Further directions for making duplicate

pligate, and taking special care to enter in the proper place, and in the proper names, all lands and lots which shall have been transferred in his office subsequent to the assessment of the taxes for the previous year; and also taking special care to notice and carry into effect, all alterations which shall be made in the assessor's list, by the board of equalization for the county.

Making dupli-
cate continued

Sec. 20. That the value of all dwelling houses, mills, breweries, distilleries, tanneries, manufactories of glass, iron, clocks and nails, founderies and other buildings, directed by law to be placed on the grand levy for taxation, as returned by the assessor from time to time, shall be added to the value of the land or lot on which the same are situated, and so placed on the tax duplicate: *Provided*, The person in whose name such house, mill, brewery, distillery, tannery, manufactory of iron, glass, clocks or nails, foundery or other building, is listed for taxation, be liable to be charged with the tax on such land or lot; and where any building, assessed and entered for taxation, shall be consumed by fire, or otherwise destroyed, the auditor shall strike the same from his duplicate, or deduct the proper proportion from the valuation of the land or lot with which the same may stand charged on such duplicate.

State, county,
township and
road tax to be
charged in sepa-
rate columns

Sec. 21. That the auditor shall charge on the valuation of the property on such duplicate, the State, county, township and road tax, in separate and distinct columns, charging the canal and State tax in the same column, and the school tax in the same column with the county tax: and he shall make such footings as to show distinctly the number of acres of land charged on the duplicate; the amount of the valuation of such land, including the value of houses, mills, breweries, distilleries, tanneries, manufactories of iron, glass, clocks and nails, founderies and other taxable buildings thereon; the valuation of town lots and the buildings thereon; the value of horses, mules, and asses; the value of neat cattle; the amount of money at interest, and mercantile and exchange broker's capital; and the amount of the valuation of pleasure carriages, as entered on such duplicate.

Delinquent lands
and lots to be
charged with the
taxes of the pre-
ceding year, and
penalty thereon

Sec. 22. That the county auditor, in making such duplicate, shall charge, on all lands and town lots returned delinquent by the county treasurer, in January next preceding, and on which the taxes shall not have been paid into the State treasury, and such payment certified by the auditor of State to the county auditor, the delinquent taxes and the interest thereon, together with a penalty of twenty-five per centum on such taxes, and shall add thereto the taxes of the current year.

Copies of dupli-
cate, when made
and how dispo-
sed of

Sec. 23. That the county auditor shall make a complete copy of such duplicate, and deliver either the original, or such copy, to the county treasurer of his county, on or before the fifteenth day of August: he shall also make out a certified copy thereof, in a book to be provided for that purpose by the auditor of State, and forward the same to the auditor of State.

in such manner as he shall direct, on or before the fifteenth day of September: and the original duplicate, or a copy thereof, the county auditor shall preserve in his office.

Sec. 24. That the county auditor shall, from time to time, correct all errors which he shall discover in his duplicate, either in the name of the person charged with taxes, the description of the land or other property, or in the amount of such tax; and when the auditor is satisfied, after having delivered the duplicate to the county treasurer for collection, that any tax thereon, or any part thereof, has been erroneously or improperly charged, he may give to the person charged therewith, a certificate to that effect, to be presented to said treasurer.

Auditor shall correct errors discovered in duplicate, and certify corrections to the treasurer

Sec. 25. That the auditor of each county in which any road tax shall be assessed, shall, immediately after the county commissioners at their June session shall have determined on the amount to be assessed for that purpose, give notice in some newspaper of general circulation in the county, of the per centum on each hundred dollars of valuation so determined to be assessed, and that said tax may be discharged by labor on the roads, under the direction of the supervisors of the several districts, at the rate of seventy-five cents per day; and shall, when required, make out a list for each township of the amount of road tax with which each individual stands charged: inserting nothing in such list but the name of the person and the amount of such tax, and deliver the same at his office to the clerk of the proper township.

Shall give notice in newspaper of the per centum levied for road purposes

Sec. 26. That the county auditor of each county, shall attend at his office on the first Monday in January annually, to make settlement with the treasurer of his county, and ascertain the amount of taxes with which such treasurer is to stand charged: and the auditor shall then take from the duplicate previously put into the hands of the treasurer for collection, a list of all such taxes as said treasurer shall have been unable to collect; therein describing the property on which such delinquent taxes are charged, as the same is described on such duplicate, and shall note thereon in a marginal column, the several reasons assigned by such treasurer why such taxes could not be collected: and such list shall be signed by the treasurer, who shall testify to the correctness thereof under oath or affirmation, to be administered by the auditor; and in making such list, the delinquencies of each township shall be kept separate and distinct: and after deducting the amount of taxes so returned delinquent, and the collection fees allowed the treasurer, from the several taxes charged on the duplicate in a just and ratable proportion, the treasurer shall be held liable for the balance of such taxes; and the auditor shall certify on such list of delinquencies the balance due to the State, the balance due to the county, the balance due for road purposes, and the balance due to the townships, and shall forthwith

Auditor shall settle with treasurer on the first Monday in January, and make list of delinquencies

record such list in his office, and then deliver the same to the treasurer, to be by him delivered to the auditor of State.

Fees of treasurer
for the collection
of taxes

Sec. 27. That the fees to be allowed to the county treasurer on such settlement with the auditor for the collection of taxes, shall be six per centum on the first two thousand dollars; five per centum on any sum between two and three thousand dollars; four per centum on any sum between three and four thousand dollars; three per centum on any sum between four and five thousand dollars; and two per centum on any sum over five thousand dollars, by him collected as aforesaid.

Auditor to keep
an account with
each township in
his county

Sec. 28. That the county auditor shall open an account with each township in his county, in which, immediately after his annual settlement with the county treasurer in January, he shall credit each township with the amount of township tax with which the treasurer stands charged, and shall credit each township with the amount of road tax, collected on the duplicate of such township; and shall also, from time to time, credit such township with the amount paid into the State treasury on the duplicate of such township, for road tax and township tax, as certified to him by the auditor of State, keeping the amount for road purposes distinct from the township tax: and on application of the township treasurer of the proper township, the auditor shall give him an order on the county treasurer for the amount then due to such township, and shall charge the township with the amount of such order: *Provided*, That the person applying for such order as township treasurer, shall deposit with the auditor a certificate from the clerk of his township, stating that such person is treasurer of such township, duly elected or appointed, and that he has given bond according to law.

To make a list
of delinquent
lands and lots
annually by 1st
day of October

Sec. 29. That the county auditor shall, annually, before the first day of October, make out a list of all lands and town lots, returned delinquent by the county treasurer in the preceding January, (excepting those on which the taxes shall have been paid into the State treasury, and such payment certified to the county auditor by the auditor of State,) describing said lands and town lots in said list, as the same are described on the tax duplicate, and charging therein the taxes of the preceding year, with the interest, and a penalty of twenty-five per centum on such taxes, also, the taxes of the current year, and shall certify and sign the same.

Delinquent list
and notice, when
and how pub-
lished

Sec. 30. That the auditor shall cause such delinquent list to be published at least four weeks between the first day of October and the first day of December, in some newspaper printed in his county, if any be printed therein; and if none be printed therein, then in some newspaper having general circulation in such county; to which list there shall be attached a notice, that the whole of the several tracts of land and town lots in said list contained, or so much thereof as will be necessary to pay the taxes, interest and penalty charged thereon, will be sold at the

court house in such county, on the last Monday in December next thereafter, by the county treasurer, unless such taxes, interest and penalty, be paid before that time.

Sec. 31. That the county auditor shall, before the day of sale mentioned in such notice, record in a book to be provided for that purpose, such delinquent list and notice, copying the same from the paper in which they shall have been published, and shall certify at the foot of said record, the name of said paper, and the length of time such list and notice were continued therein.

List and notice to be recorded before day of sale

Sec. 32. That the county treasurer or his deputy, shall attend at the court house in his county, on the last Monday in December, in conformity with the notice aforesaid; and shall then and there, at and after the hour of ten in the forenoon, proceed to offer for sale, separately, each tract of land or town lot, contained in the advertisement aforesaid, and on which the taxes, interest and penalty have not then been paid; and the person or persons offering at said sale to pay the taxes, interest and penalty charged on such land or lot for the least quantity thereof, shall be the purchaser or purchasers of such quantity: and the treasurer may continue such sale from day to day, until each tract of land or town lot contained in such advertisement, and on which the taxes, interest and penalty remain unpaid, shall be sold or offered for sale.

Delinquent lands and lots, when, how and by whom sold

Sec. 33. That the person or persons purchasing such tract of land or town lot, or any part thereof, shall forthwith pay to the treasurer the amount of taxes, interest and penalty charged thereon; and on failure so to do, the treasurer shall immediately offer said land or lot again for sale, in the same manner as if no such sale had been made: and the person so failing to make payment, shall forfeit and pay a penalty of twenty-five per centum on the amount of such tax, interest and penalty, to be recovered by an action of debt, in the name of the treasurer, for the use of the county, before any justice of the peace, or court, having jurisdiction thereof.

Purchaser failing to pay, subject to penalty.

Sec. 34. That the county auditor or his deputy, shall attend all such sales of delinquent lands and lots made by the treasurer of his county, and shall make a record thereof in a substantial book, therein describing the several tracts of land and town lots offered for sale, as the same shall have been described in the advertisement aforesaid, and stating how much of each tract or town lot was sold, and to whom sold; and if any tract or lot shall remain unsold for want of bidders, he shall so enter it on the record: and the auditor shall make out and certify a copy of said record, and forward the same to the auditor of State, by the county treasurer, at the time such treasurer makes his annual return of State tax, in January next after such sale.

Auditor or deputy to attend sales and make record thereof

To forward a copy of record to the auditor of State

Sec. 35. That the auditor shall make out and deliver to the purchaser of any land or lots, sold for delinquent taxes as aforesaid, a certificate of purchase, therein describing the land or lots

Auditor to make out and deliver certificates of purchase

so sold, as the same was described on the tax duplicate; and stating therein the amount of taxes, interest and penalty for which the same was sold: and if only a part of a tract be sold, such certificate shall specify the quantity sold, and shall be directed to the county surveyor, requiring him, when requested by the purchaser, his assignee or heirs, to lay off by metes and bounds in a square, as near as practicable, at the most north-westerly corner of the tract from which the sale was made, the quantity so sold; and if the sale be made from an in-lot or out-lot in any town, or from any particular part thereof, such certificate shall require the county surveyor so to lay off the part or proportion sold, that it shall extend from the main or principal street, road or alley, which may be the most convenient point to such lot, to the rear of the lot, and to bound the same by lines, as nearly parallel with the outlines of such lot, as practicable.

No deed or survey to be made within two years from the sale
 Sec. 36. That no deed shall be made by the auditor, for any land or lot sold as aforesaid, for taxes, until the expiration of two years from and after such sale; nor shall the survey thereof, required by the certificate of purchase, be made until the expiration of that time.

Certificates of purchase assignable
 Sec. 37. That said certificates of purchase shall be assignable in law; and an assignment thereof, shall vest in the assignee, or his legal representative, all the right and title of the original purchaser.

After the lapse of two years, auditor or successor to make a deed
 Sec. 38. That at any time, after the lapse of two years from the time of such sale for taxes, if the land or lot so sold shall not have been redeemed, the county auditor, or any of his successors in office, shall, on request, and on production of the certificate of purchase, and in case of the sale of a part only of a tract of land or lot, on production of the county surveyor's return of a survey, in conformity with the requisitions of such certificate, execute and deliver to the purchaser, his heirs or assignee, (as the case may be) a deed of conveyance for the tract of land or town lot, or such part thereof as shall have been sold as aforesaid.

Effect of the deed
 Sec. 39. That the deed so made by the auditor, shall vest in the grantee, his or her heirs and assigns, a good and valid title, both in law and equity, and shall be received in all courts, as prima facie evidence of a good and valid title in such grantee, his heirs and assigns.

Purchaser of the interest of joint-tenant, &c shall hold in common with other proprietors
 Sec. 40. That the purchaser, at a sale of lands or lots for taxes, of the interest of any joint tenant, tenant in common, or coparcener, or of any part or portion of such interest, shall, on obtaining the deed from the auditor, for the part or portion so by him purchased, hold the same as tenant in common with the other proprietor or proprietors of such land or lot, and be entitled to all the privileges of a tenant in common, until legal partition of such land or lot shall be made.

sale of lands erroneously re-
 Sec. 41. That if the taxes charged on any land or lot be regularly paid, and such land or lot erroneously returned delin-

quent, and sold for taxes, the sale thereof shall be void; and the money paid by the purchaser at such void sale, shall be refunded to him out of the county treasury, on the order of the county auditor.

Sec. 42. That upon the sale of any land or town lot for delinquent taxes, the lien which the State has thereon for the taxes then due, shall be transferred to the purchaser at such sale: and if such sale shall prove to be invalid, on account of any irregularity in the proceedings of any officer having any duty to perform in relation thereto, the purchaser at such sale, shall be entitled to receive from the proprietor of such land or lot, the amount of the taxes, interest and penalty legally due thereon at the time of such sale, and the amount of taxes paid thereon by the purchaser subsequent to such sale; and such land or lot shall be bound for the payment thereof.

Sec. 43. That no sale of any land or town lot for delinquent taxes, shall be considered invalid on account of its having been charged on the duplicate in any other name than that of the rightful owner: *Provided*, That such land or lot be in other respects sufficiently described on the duplicate, and the taxes for which the same is sold, be due and unpaid at the time of such sale.

Sec. 44. That when, by the provisions of any former law, the collector of taxes, or the county treasurer, was authorized to make deeds for lands or lots by them sold for delinquent taxes, and the same has not been done, the county auditor of the proper county shall be, and he is hereby authorized, to make such deeds to all persons entitled thereto; and the deeds which shall be so made by the auditor, shall be as good and valid in law, as if made by the person authorized under such former law to make them.

Sec. 45. That the county auditor shall enter in a book to be kept in his office, a minute of all deeds by him made for lands and town lots, or parts thereof, sold for taxes; therein naming the person who stood charged with the taxes at the time of such sale, the date of the sale, the name of the purchaser, a brief description of the land or lot so sold, the quantity sold, the amount for which the same was sold, the name of the grantee in the deed, and the date of its execution.

Sec. 46. That every tract of land and town lot, offered for sale by the treasurer, as hereinbefore provided, and not sold for want of bidders, shall be, and the same is hereby declared to be, forfeited to the State of Ohio; and thenceforth, all the right, title, claim, and interest of the former owner or owners thereof, shall be considered as transferred to, and vested in, said State, to be disposed of as the Legislature may by law direct.

Sec. 47. That if the former owner or owners of any tract of land or town lot, which may be forfeited as aforesaid, shall, at any time before the State shall have disposed of such land

turned delinquent, shall be void, and money refunded

Lien of the State for taxes, transferred to the purchaser

Sale of lands, &c. not invalid on account of being charged in wrong name

Auditor may make deeds for lands sold under former laws

Auditor to keep an entry of deeds made

Lands and lots not sold for want of bidders, forfeited to the State

Forfeited lands and lots may be redeemed at any time before dis-

posed of by the State or lot, pay into the county treasury of the county in which such land or lot may be situated, or into the State treasury, all the taxes, interest and penalties, due thereon at the time of such forfeiture, together with the taxes, interest and penalties, which would have accrued on such land or lot, if the same had been regularly continued on the duplicate for taxation; which sum shall be ascertained and certified by the auditor; the State shall, in such case, relinquish to such former owner or owners, all claim to such land or lot, and the county auditor shall then re-enter such land or lot on his duplicate, with the name of the proper owner or owners.

Auditor to charge treasurer with money received on forfeited lands and forward a list to the auditor of State, &c. Sec. 48. That the county auditor shall charge the county treasurer with all money by him received, under the provisions of the preceding section; and shall make out an annual list of lands and town lots, upon which payment shall have been made as aforesaid, specifying therein the proportion of such money belonging to the State; and shall forward said list to the auditor of State, by the county treasurer, at the time of paying over the State tax, in January: and the county treasurer shall pay into the State treasury, the State's proportion of such money, at the time he pays the other taxes due the State.

Auditor of State to furnish forms Sec. 49. That the auditor of State shall, from time to time, furnish the several county auditors and county assessors with all such forms as he may wish them to pursue, in the performance of their several duties, and the said auditors and assessors shall observe them accordingly.

Acts repealed Sec. 50. That the "Act defining the duties of county auditor," passed February 23d, 1824; and the "Act to amend the act, entitled 'An act defining the duties of county auditor,'" passed February 1st, 1825; the act with the same title with the last named act, passed January 17th, 1827; and the act with the same title, passed February 11th, 1828; be, and the same are hereby repealed: *Provided*, That the repeal of said acts shall not affect any rights acquired, or liabilities or obligations incurred, under any of their provisions; and the county auditors now in office shall continue to hold the same for the several periods for which they have been elected.

Proviso

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 14, 1831.

AN ACT prescribing the duties of county treasurers.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be elected on the second Tuesday in October, biennially, by the qualified electors in each organized county in this State, one county treasurer for such county; who shall hold his office for two years from the first Monday of June next succeeding his election, and until his successor shall be elected and qualified. County treasurer to be elected biennially

Sec. 2. That each county treasurer, previous to entering on the duties of his office, shall give bond, with four or more freehold securities, to the acceptance of the county commissioners, and in such sum as said commissioners shall direct, payable to the State of Ohio, and conditioned for the paying over, according to law, all moneys which shall come into his hands for State, county, township, or other purposes; and shall also take and subscribe an oath or affirmation, to be indorsed on said bond, that he will faithfully discharge all the duties of his office: and the said bond, so indorsed, shall be deposited with the auditor of the county, and be by him carefully preserved. To give bond and security and take an oath &c.

Sec. 3. That if any person elected to the office of county treasurer, shall not give bond and take the oath or affirmation as required in the preceding section, on or before the first Monday in June next after his election, his office shall be considered vacant. Failure to give bond and take the oath, shall vacate the office

Sec. 4. That whenever the office of county treasurer shall become vacant by death, removal out of the county, resignation, neglect to give bond, or from any other cause, the county commissioners of the proper county shall forthwith meet and appoint some suitable person to fill such vacancy; and the person so appointed shall give bond and take an oath or affirmation, as required in the second section of this act, and shall hold his office until the expiration of the term for which his predecessor was elected or appointed, and until his successor is elected and qualified. When the office becomes vacant, county commissioners shall appoint, etc.

Sec. 5. That each county treasurer shall keep his office at the seat of justice for his county; and shall keep a fair and accurate account of all moneys by him received, showing the amount thereof, the time when, from whom, and on what account received; also, of all disbursements by him made, showing the amount thereof, the time when, to whom, and on what account paid: and he shall so arrange his books that the amount received and paid on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate and distinct accounts: *Provided*, That no money received for taxes charged on the duplicate of the current year, shall be by the treasurer entered on his account with the county, until he shall have made his annual settlement with the county auditor, on the first Monday in January. Treasurer to keep his office at the seat of justice

Shall give duplicate receipts for money received, one of which shall be, &c.

Sec. 6. That when any money shall be paid to the county treasurer, (excepting such as shall be paid on account of taxes charged on the duplicate) the treasurer shall give to the person paying the same, duplicate receipts therefor: one of which such person shall forthwith deposit with the county auditor, in order that the treasurer may be charged with the amount thereof.

His books, &c. subject to the inspection of the commissioners

Sec. 7. That the books, accounts and vouchers of the county treasurer, and all moneys remaining in the treasury, shall at all times be subject to the inspection and examination of the county commissioners.

His duty in redeeming orders

Sec. 8. That the county treasurer, when any order drawn on him as treasurer, by the auditor of his county, is presented for payment, shall, if there be money in the treasury for that purpose, redeem the same, and shall write on the face of such order, "Redeemed," the date of the redemption, and shall sign his name thereto.

Orders not paid for want of funds, shall be indorsed, etc.

Sec. 9. That when any order shall be presented to the county treasurer for payment, and the same is not paid for want of funds, the treasurer shall indorse said order, "not paid for want of funds," annexing the date of its presentment, and shall sign his name thereto; and said order shall from thenceforth bear an interest of six per centum per annum.

When there are funds sufficient to redeem orders bearing interest, treasurer shall give notice thereof

Sec. 10. That so soon as there shall be sufficient funds in the treasury of the county, to redeem the orders drawn thereon, and on which interest is accruing, the county treasurer shall give notice in some newspaper printed in his county, or circulating therein, that he is ready to redeem such orders; and from the date of such notice, the interest on such orders shall cease.

Treasurer to keep a distinct account of interest paid

Sec. 11. That when the county treasurer shall redeem any order on which any interest is due, he shall note on such order the amount of interest by him paid thereon, and shall enter in his account the amount of such interest, distinct from the principal.

Orders redeemed to be deposited with the auditor quarterly

Sec. 12. That the county treasurer shall, on the first Monday of March, June, September and December, in each year, deposit with the auditor of his county, all orders on the treasury by him redeemed, and take the auditor's receipt therefor.

Treasurer shall receive tax duplicate between 1st and 15th day of August, and shall give notice of the per cent. levied, etc.

Sec. 13. That the county treasurer shall, between the first and fifteenth days of August, annually, receive from the county auditor of his county, a duplicate of the taxes assessed by such auditor; and immediately after receiving said duplicate, he shall cause notices to be posted up in three places in each township throughout the county, one of which shall be the place of holding elections in the township, and also to be inserted in some newspaper having general circulation in his county, for six successive weeks, stating in said notices the amount of tax charged for State, county, township, road, or other purposes, on each hundred dollars of valuation; also, on what day the treasurer or his deputy will attend at the place of holding elections in each township, for the purpose of receiving such taxes: and the

treasurer or his deputy shall attend for the purpose aforesaid, on the day and at the place named in such notices; and shall attend at his office at the seat of justice during the months of October and November, to receive taxes from persons wishing to pay them: *Provided*, That the county commissioners of any county, at their stated meeting in June in any year, if they shall deem it necessary, for the convenience of the citizens of any township or townships, in their county, to enable them to pay their taxes without attending at the county seat, may make an order, requiring the county treasurer to attend two days in such township or townships, for the purpose of receiving taxes, and shall notify the treasurer thereof; and the treasurer shall be bound to attend accordingly, and shall state in the notices to be given as aforesaid, on what days he will attend in said township or townships for that purpose.

Sec. 14. That each county treasurer may appoint one or more deputies to assist him in the collection of taxes; and may take such bond and security from the persons so appointed, as he shall deem necessary for his indemnity; and shall in all cases be liable and accountable for the proceedings and misconduct in office of his deputies.

Treasurer may appoint deputies to assist in the collection of taxes.

Sec. 15. That the county treasurer or his deputy, whenever any tax shall be paid, shall give to the person paying the same a receipt therefor, specifying therein the land, town lot or other property, on which such tax was assessed, according to its description on the duplicate, or in some other sufficient manner.

Treasurer shall give receipt for taxes, etc.

Sec. 16. That when any person shall desire to pay only a proportion of the tax charged on any real estate, such person shall pay a like proportion of all the several taxes charged thereon for State, county, township, road, or other purposes; and no person shall be permitted to pay one of said taxes without paying the others, except the tax for the erection, completion or repair of school houses, the collection of which shall have been enjoined.

Person paying a proportion of tax shall pay a like proportion of all, except, &c.

Sec. 17. That if any person shall be erroneously or improperly charged on the duplicate with any taxes, and shall deposit with the county treasurer a certificate to that effect, signed by the county auditor, the treasurer shall omit to collect such taxes, or so much thereof as shall have been erroneously or improperly charged.

Treasurer shall omit to collect taxes improperly charged

Sec. 18. That if any person or persons shall fail to pay the taxes charged against him, her or them, on or before the first day of December next after the same shall become due, such person or persons may pay the same at any time before the treasurer shall have distrained any property for the payment of such taxes, but shall be charged with a penalty of ten per cent. thereon, for the use of the treasurer.

Persons paying taxes after 1st of December and before distress, shall be, &c.

Sec. 19. That at any time subsequent to the first day of December next after such taxes shall become due, the county treasurer, or his deputy, may distrain sufficient goods and chattels

After 1st of December, treasurer may distrain for taxes, &c.

belonging to the person or persons charged with such taxes, if found within his county, to pay the taxes so remaining due from such person or persons, and the costs that may accrue; and shall immediately proceed to advertise the same in three public places in the township where such property may be taken, stating the time when, and the place where, such property will be sold: and if the taxes for which such property shall have been distrained, and the costs which shall have accrued thereon, shall not be paid before the day appointed for such sale, which shall not be less than ten days after the taking of such property, such treasurer, or his deputy, shall proceed to sell such property at public vendue, or so much thereof as will be sufficient to pay said taxes, and the costs of such distress and sale.

Fees for distress and sale, the same as allowed to constables on executions

Sec. 20. That the treasurer shall be allowed the same fees for making distress and sale of goods and chattels for the payment of taxes, as may be allowed by law to constables for making levy and sale of property on execution; traveling fees to be computed from the seat of justice of the county to the place of making the distress.

Treasurer to settle with the auditor on first Monday of January, and return delinquencies.

Sec. 21. That the county treasurer shall annually, on the first Monday of January, make settlement with the auditor of his county, and make return of the delinquencies on the tax duplicate, in the manner which shall be directed in the "act prescribing the duties of county auditors."

Treasurer standing charged with taxes not collected, may collect them in one year thereafter by distress or action of debt

Sec. 22. That if any county treasurer, on making settlement with the county auditor, shall stand charged with any tax which remains unpaid, and shall not receive a credit therefor in such settlement, such treasurer may collect such tax for his own use at any time within one year after such settlement, either by distress and sale, as hereinbefore provided, or by an action of debt in his own name, before any justice of the peace or court having jurisdiction thereof.

Treasurer to pay money received for State purposes into State treasury by 15th January

Sec. 23. That each county treasurer shall, on or before the fifteenth day of January, pay over to the treasurer of State, all the moneys by him received for State purposes, agreeably to the certificate of settlement with the auditor of his county, deducting therefrom his traveling fees; and shall take duplicate receipts for the money so paid, one of which he shall deposit with the auditor of State.

To be allowed eight cents per mile to and from seat of government

Sec. 24. That the sum of eight cents per mile shall be allowed to each county treasurer for traveling fees in going to and returning from the seat of government, in order to pay into the State treasury the moneys by him received for State purposes; to be computed by the auditor of State according to the distance on the route most usually traveled.

Treasurer failing to make settlement or payment, the auditor shall institute

Sec. 25. That if any county treasurer shall fail to make return, fail to make settlement, or fail to pay over all money with which he may stand charged, at the time and in the manner prescribed by law, it shall be the duty of the county auditor, on receiving instructions for that purpose from the auditor

of Slate, or from the county commissioners of his county, to cause suit to be instituted against such treasurer and his securities, in the court of common pleas of his county; and it shall be lawful for such court, at the first term thereof after the commencement of such suit, if the process issued against such treasurer and his securities shall have been duly served and returned, to render judgment against them for the amount due from such treasurer, with legal interest, and a penalty of ten per cent. thereon: from which judgment there shall be no appeal, nor shall there be any stay of execution; and the property of such delinquent treasurer and his securities may be sold without appraisement, to satisfy such judgment: *Provided*, That if the court shall be satisfied that justice cannot otherwise be done, they may continue such cause; but in no case shall they grant more than two continuances.

Sec. 26. That whenever suit shall have been commenced against any delinquent county treasurer as aforesaid, the county commissioners of such county may, at their discretion, remove such treasurer from office, and appoint some person to fill the vacancy thereby created, as hereinbefore provided. Commissioners may remove delinquent treasurer

Sec. 27. That the sheriff or other officer who shall collect any money from a delinquent county treasurer or his securities, shall, within ten days after the collection thereof, pay into the county treasury such proportion thereof as shall belong to the county or townships therein; and within thirty days after such collection, he shall pay into the State treasury the proportion belonging to the State, retaining the same traveling fees as are herein allowed to county treasurers: *Provided*, That if the proportion belonging to the State should not exceed one thousand dollars, the sheriff or other officer shall deposit the same with the county treasurer, and shall take triplicate receipts therefor, one of which he shall deposit with the county auditor, and one he shall forthwith inclose in a letter to the auditor of State; and the money so deposited with the county treasurer and belonging to the State, shall be by the county treasurer paid over to the treasurer of State, at such time, and in such manner, as the auditor of State shall direct. Duty of officer in paying over money collected from a delinquent treasurer

Sec. 28. That if any sheriff or other officer, to whom an execution against a delinquent treasurer and his securities shall be delivered, shall neglect or refuse to execute the same, or shall neglect or refuse to pay over any money collected thereon, as required in the preceding section, he and his securities shall be liable to the same penalties, and shall be proceeded against in the same manner, as is herein provided in relation to delinquent treasurers. Officer failing to serve execution against delinquent treasurer, or failing to pay over money collected thereon, shall be subject to same proceedings as delinquent treasurers

Sec. 29. That if any deputy treasurer shall fail to pay over to his principal, on demand, any taxes or other money by him collected as deputy treasurer, the same proceedings may be had against him and his securities, at the instance of the trea- Delinquent deputy treasurers subject to same proceedings as

DUTIES OF COUNTY TREASURERS.

the instance of
their principals

surer, as are by this act authorized against treasurers for failing to make payment according to law.

County treasurers to sell delinquent lands

Sec. 30. That the county treasurers shall make sale of delinquent lands and town lots in the manner which shall be pointed out in the "act prescribing the duties of county auditors," and shall do and perform all such other duties as now are, or hereafter may be, required of them by any general or local law.

To make settlement with commissioners in June, annually

Sec. 31. That each county treasurer shall make a full settlement with the county commissioners of his county, at their stated meeting in June annually, and shall be allowed for his services five per centum on all money by him received and paid out during the preceding year, excepting that collected on the tax duplicate, and excepting also that on which some other rate of compensation is fixed by law; and shall be credited with the sum by him paid for printing such advertisements as he is required to publish in some newspaper, and with the sum by him paid for blank books and stationery, necessarily used in his office: *Provided*, That no per centage shall be allowed to the treasurer on any money by him received from his predecessor in office, or from the legal representatives of such predecessor.

To deliver money, books, etc., to his successor in office

Sec. 32. That each county treasurer, on going out of office, shall deliver to his successor in office all the public money, books, accounts, papers and documents in his possession; and in case of the death of any county treasurer, his legal representatives shall in like manner deliver up all such moneys, books, accounts, papers and documents, as shall come into their possession.

Acts repealed

Sec. 33. That the act, entitled "An act to abolish the office of county collector, and defining the duties of county treasurer," passed January 24th, 1827; and the act, entitled "An act to amend the act to abolish the office of county collector, and defining the duties of county treasurer," passed February 11th, 1828; be, and the same are hereby repealed: *Provided*, That the county treasurers now in office, shall continue to hold their respective offices for the same time as though the acts under which they were elected or appointed were not repealed; and the rights acquired, obligations and liabilities incurred, under said acts, shall not be affected by the repeal thereof.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 12, 1834.

AN ACT to provide for the sale of lands forfeited to the State for the non-payment of taxes.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the lands, in-lots, out-lots, and parts of lots, within ^{Forfeited lands and lots to be sold} the several counties of this State, which have become forfeited to the State for the non-payment of taxes, which have accrued prior to the first day of January, 1831; and all lands which may hereafter become forfeited to the State by the non-payment of taxes, or otherwise; shall be sold and disposed of by the State of Ohio, agreeably to the provisions of this act.

Sec. 2. That the auditor of State shall cause all lands, in-lots, out-lots, and parts of lots, now forfeited to the State for the non-payment of taxes, which have accrued prior to the year 1831, except those lands which have been forfeited to the United States, and have since been purchased by the original owner or owners, or any other person or persons, to be entered in a book, to be provided for that purpose; which entry shall set forth the same by township and county, as in case of other lands. ^{Auditor of State to make a list of forfeited lands and lots}

Sec. 3. That the auditor of State, at the time he transmits the county duplicate for the year 1831, to the several county auditors, shall also transmit to each county auditor, a list of the forfeited lands lying in such county; which list shall set forth the name or names of the person or persons to whom such lands stand charged with taxes; the amount of taxes due thereon for each year, including the year 1831, and for what years: and shall certify and sign the said list, and affix thereto the seal of his office. ^{To transmit lists to the county auditors in 1831}

Sec. 4. That the auditor of each county, on receiving from the auditor of State the list of lands within his county, as aforesaid, in case the tax, interest, and penalties due thereon, shall not have been paid on or before the fifteenth day of October, 1831, shall forthwith thereafter cause notice thereof to be advertised four weeks successively, describing the lands in the same manner they are described on the list furnished by the auditor of State, in a newspaper printed in his county, if any such there be, and if not, in some newspaper in circulation therein, to all concerned, that if the tax, interest and penalties charged on said list, be not paid into the county treasury, and the treasurer's receipt produced therefor, before the time specified by this act, for the sale of said lands, (which day shall be named in said notice,) that then, and in that case, each tract so as aforesaid delinquent, on which the taxes, interest and penalties may remain unpaid, will, on the second Monday of December thereafter, be exposed for sale at the court house, or usual place of holding courts in such county, in order to satisfy such tax, interest and penalties: and the auditor in each county shall, on the said second Monday of December, attend at the court house, or usual place of holding courts in said county, and proceed to sell the whole of each tract of land as contain- ^{County auditor to publish list and notice &c.} ^{Sale, when and where made}

ed in said list, at public auction, to the highest bidder: in selling whereof, he shall offer each tract separately, beginning with the first tract contained in said list, and so continuing on through said list, until each tract contained therein shall be sold, or offered for sale; and the person offering at said sales the highest sum for any such tract of land, shall be the purchaser.

Sec. 5. That the auditor of State shall annually, after the year 1831, enter in the book provided for by the second section of this act, all the lands which shall hereafter become forfeited to the State of Ohio, for the non-payment of taxes; and once in two years, shall make out a list of such forfeited lands, and forward the same to the several county auditors, who shall proceed to sell the same agreeably to the provisions of this act; and all lands offered for sale under the provisions of this act, and not sold for want of bidders, shall be again advertised and offered for sale, by the county auditor, at the next subsequent sales by him made, under this act, until such lands shall be sold.

Sec. 6. That the county auditor in each county, on a sale being made by him of a tract of land to any person or persons, under this act, shall give to such purchaser or purchasers, a certificate of such sale; and if the land so sold be not an entire original tract, said certificate shall be directed to the county surveyor of his county, requiring said surveyor to proceed, at the request of the purchaser or purchasers, his or their heirs, assignee or assignees, to ascertain the boundaries of such tract of land so purchased, unless said tract should be holden in common with any other person or persons: in either case, on producing or returning to the county auditor the certificate of sale, where the said tract sold is an entire original tract, or where

the said tract of land so sold is holden in common with any other person or persons, or on producing the plat and certificate of the county surveyor, attached to a copy of the certificate of sale, the county auditor shall, on the purchaser or purchasers, his or their heirs, assignee or assignees, paying to him the sum of one dollar and twenty-five cents, execute and deliver to such purchaser or purchasers, his or their heirs, assignee or assignees, a deed therefor in due form; which deed shall be prima facie evidence of title in the purchaser or purchasers: *Provided*, That

if any land shall be sold by virtue of this act, the property of any minor, feme covert, insane person, or persons in captivity, the owner or owners thereof shall have a right to redeem the same in the manner prescribed by law: *Provided*, also, That any tract of land sold by virtue of the provisions of this act, the taxes having been regularly paid previous to said sale, such sale is hereby declared void; and the purchaser or purchasers, his or their heirs, assignee or assignees, on producing the certificate of sale to the auditor of State, shall be entitled to have his or their money refunded from the State treasury: and the auditor shall pay the same out of money appropriated for refunding taxes twice or improperly paid.

After 1831, lists
to be sent out
and sales made
biennially

Auditor making
sale to give cer-
tificate, etc.

On production of
certificate or plat
auditor to make
deed

Minors etc. may
redeem

Proviso as to
void sales

Sec. 7. That any person or persons claiming any land, in lot, out-lot, or part of a lot, by virtue of any sales made by the provisions of this act, as tenant in common with any other person or persons, may apply for partition of the same, in the same manner as now is or may be provided for the partition of real estate; and in presenting the county auditor's deed, the court before whom application for partition as aforesaid is made, shall set off to such person or persons, the land claimed in said deed, as his or their share, in the same manner as prescribed by law, for the partition of estate or estates, in lands, tenements or hereditaments, of joint tenants, tenants in common, and coparceners.

Purchasers under this act may have out-lots in other cases

Sec. 8. That the purchaser of any such lands, his heirs or assigns, shall, from the day of such purchase, be taken in all courts as the assignee of the State of Ohio; and the amount of taxes, interest and penalties, charged on the said land at the time it was sold, together with all legal taxes afterwards paid thereon by such purchaser, his heirs or assigns, shall operate as a lien on said lands.

Purchaser to be considered as the assignee of the State, etc.

Sec. 9. That in all cases where any claimant of any lands sold under the provisions of this act, his heirs or assigns, shall recover by action the lands so sold as aforesaid for taxes, such claimant, his heirs or assigns, shall be liable to refund to the purchaser, his heirs or assigns, the amount of taxes, interest and penalties, due the State on the land when sold, together with all other taxes paid thereon, by such purchaser, his heirs or assigns, up to the time of recovery, with interest: and such purchaser, his heirs or assigns, may assert his, her or their claim, or lien, in chancery or at law, as the case may require.

Claimant recovering lands from the purchaser, shall refund taxes, interest and penalties

Purchaser may assert his lien in chancery or at law

Sec. 10. That the county auditor shall pay over to the county treasurer of his proper county, the amount of moneys received by any such sale, within ten days thereafter; and twenty-five per cent. of the proceeds of the first sale made by virtue of this act, shall be expended in the improvement of the public roads and highways within such county, under the direction of the county commissioners thereof: also, so much of the proceeds of said first sale as will discharge all the necessary costs and expenses incurred by such county, in effecting such sale under the provisions of this act, shall be retained by such county treasurer, for the use of such county, and the residue thereof shall be by him returned to the treasury of the State; and that twenty-five per cent. of the net amount of all other money collected at any subsequent sales, under the provisions of this act, within any county of this State, shall be retained by the county treasurer, for the use of such county, and the residue thereof shall be paid into the State treasury.

Proceeds of the sales, how appropriated

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14, 1831.

REDEMPTION OF LANDS AND LOTS

AN ACT for the redemption of lands and town lots sold for taxes.

Sec. 1. Be it enacted by the General Assembly of the State of Ohio. That all lands and town lots which have been, or may hereafter be, sold for taxes, may be redeemed at any time within two years from and after the sale thereof; and all lands and town lots belonging to minors, females covert, insane persons or persons in captivity, and which have been, or hereafter may be, sold for taxes, may be redeemed at any time within two years from and after the expiration of such disability.

Sec. 2. That all applications for the redemption of lands or town lots sold for taxes, shall be made to the court of common pleas of the county in which such lands or town lots are situated; and if any such tract be divided by a county line, application for the redemption thereof shall be made in the county in which such land was sold.

Sec. 3. That the party intending to make application for the redemption of any land or town lot sold for taxes, shall give notice in some newspaper printed in the county in which he intends to make such application, if any be printed therein; and if none be printed therein, then in some newspaper circulating in such county: which notice shall describe the land or lot, in the same manner that it was described on the tax duplicate, at the time of the sale thereof; stating the quantity in the original tract, the quantity sold, the name in which the same stood charged with taxes at the time of the sale, and the name of the person to whom sold; and shall state that application will be made to the court of common pleas at their next session in said county, for an order of redemption; and shall be inserted in such newspaper at least six weeks successively prior to the sitting of said court.

Sec. 4. That the party intending to make such application, shall, at the time of publishing the aforesaid notice, deposit with the clerk of the court to which the application is to be made, an amount of money equal to that for which such land or lot was sold, and the taxes subsequently paid thereon by the purchaser, or those claiming under him, together with interest, and fifty per cent. on the whole amount paid by such person, including costs.

Sec. 5. That if the court to which such application shall be made, shall be satisfied that due notice has been given, as required in the third section of this act, and that the deposit required by the preceding section has been made, they shall proceed to examine the testimony of such applicant relative to his right of redemption, and the counter testimony of the adverse party, if any be offered; and if on such examination, the court shall be satisfied that the applicant is entitled to redeem such land or town lot, they shall make an order of redemption, which shall vest in the applicant all the title which passed by such sale, and shall award restitution of the premi-

Lands, etc., sold for taxes, may be redeemed in two years from the sale or expiration of disability

Applications to be to c. p. of the county where lands are situated

Applicant to give six weeks' notice in newspaper

Applicant must deposit redemption money with the clerk

Duty of the court on applications for redemption

ses, and direct that the applicant pay the costs of the application; and the court shall at the same time order the money so deposited as aforesaid, to be paid to the adverse party.

Sec. 6. That when any joint tenants, tenants in common or coparceners, shall be entitled to redeem any land or town lot sold for taxes, and any of the persons so entitled shall refuse to join in the application for an order of redemption, or from any cause cannot be joined in such application, the court may entertain the application of any one of such persons, or so many as shall join therein, and may make an order for the redemption of such proportion of said land or lot, as the person or persons making such application shall be entitled to redeem. Joint tenant, etc. may redeem his proportion

Sec. 7. That in case any lasting and valuable improvements shall have been made by the purchaser at a sale for taxes, or by any person claiming under him, on any land or town lot for which an order of redemption shall be made as aforesaid, the premises shall not be restored to the person obtaining such order, until he shall have paid or tendered to the adverse party the value of such improvements; and if the parties cannot agree on the value of such improvements, the same proceedings shall be had in relation thereto, as shall be prescribed in any law existing at the time of such proceeding, for the relief of occupying claimants of land: *Provided*, That no purchaser of any land or town lot sold for taxes, nor any person claiming under him, shall be entitled to any compensation for any improvements which he shall make on such land or town lot within two years from and after the sale thereof. Purchaser at tax sale to be paid for improvements

Sec. 8. That the person obtaining an order for the redemption of any land or town lot as aforesaid, shall, within thirty days after the date thereof, cause a certified copy of such order, with the seal of the court affixed thereto, to be recorded among the records of deeds in the county wherein such land or lot is situated. Copy of the order of redemption to be recorded in thirty days

Sec. 9. That the "Act directing the mode of redeeming lands sold for taxes," passed January 4, 1816; the "Act supplementary thereto," passed January 30, 1827; and all other acts and parts of acts for the redemption of lands or town lots sold for taxes; be, and the same are hereby repealed: *Provided*, That all proceedings for the redemption of any land or lot sold for taxes, which shall be pending at the time this act takes effect, shall be proceeded in and determined, in the same manner as if said acts were not repealed, and this act had not been passed. Former acts repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 3, 1831.

AN ACT to tax Bank, Insurance and Bridge Companies.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the board of directors, (by whatever denomination, style or name they may be known or distinguished) of every bank, insurance or bridge company, incorporated by law of this State, shall, by the first day of October next, cause to be transmitted to the auditor of State, a correct statement of all dividends, made by such bank, insurance or bridge company, at any time after the first day of April next; which statement shall be signed by the presiding officer of such corporation, and countersigned by the cashier, secretary, chief clerk, or other officer, who shall be the principal accounting officer of such corporation, who shall also attest under oath to the correctness of such statement: and a statement of each and every subsequent dividend made or declared by such corporation, made out, signed and attested in the same manner, shall be forwarded to the auditor of State, within ten days after such dividend shall have been made: and the auditor of State, on receiving such statement, shall, in each case, immediately draw on such corporation in favor of the treasurer of State, for the amount of five per cent. computed on the dividend so certified; and the treasurer shall receive the same, and account therefor, as for other moneys received into the treasury.

Directors of bank, insurance and bridge companies to furnish the auditor of State with a statement of all dividends, and auditor to draw for five per cent. thereon

Sec. 2. That if any bank, insurance or bridge company, incorporated in this State, shall refuse or neglect to make out and forward to the auditor of State, the statement required by this act, in the manner and within the time herein specified, or shall neglect to pay any draft drawn by the auditor of State, for the amount of tax due to the State; such bank, insurance or bridge company, shall forfeit and pay any sum not exceeding one thousand dollars, to be recovered by action of debt in the name of the State of Ohio, with costs of suit, before any court having cognizance thereof; which amount shall be paid over to the treasurer of State, and be by him accounted for, as are other moneys received into the treasury: and it is hereby made the duty of the prosecuting attorney, in each and every county in this State, where any incorporated bank, insurance or bridge company may be located, upon being notified by the auditor of State, of the neglect or refusal of any such company, to make out and forward the statement required by this act, immediately, to institute suit against such company, for the penalty aforesaid.

Penalty for neglecting to furnish statement or pay draft

Sec. 3. That no policy of insurance of any description or for any purpose, shall be signed, issued or delivered in this State, nor on any property of any kind situated in this State, by any association, company or corporation, not chartered by law of this State, except by an agent of such company, who shall first have obtained license therefor from the county treasurer, as herein-after provided: and every policy, covenant or agreement of insurance, issued or delivered, or effected, contrary to the provis-

Agents of foreign insurance companies, to obtain license

ions of this section, shall be, to all intents and purposes, null and void; and the person who shall sign, issue or deliver the same, in behalf of any such company, corporation or association, shall forfeit and pay, for every such offence, the sum of one hundred dollars, to be recovered by action of debt, at the suit of the treasurer, and to be accounted for by him as for moneys received for taxes levied on such company, by the provisions of the succeeding section.

Sec. 4. That before the county treasurer shall grant a license to the agent of any insurance company, as contemplated by the preceding section, such agent shall execute and deliver to said treasurer, a bond, with good and sufficient sureties, to the acceptance of the treasurer, in the penal sum of two thousand dollars, payable to the State of Ohio, conditioned that such agent shall, within the first ten days of October, annually, make out, attest under oath, and deliver to the county auditor, a true and complete account or statement of all the profits derived from premiums, received on all policies by him issued or delivered, and which have expired during the year next preceding the time such amount or statement is made out; and shall pay to said county treasurer, on the order of the county auditor, the full amount of tax which may be levied thereon, to be drawn for as hereinafter provided.

Agent to give
bond before ob-
taining license

Sec. 5. That it shall be the duty of the county auditor, within ten days after receiving the statement of the profits derived from premiums, as prescribed in the preceding section, to make out and deliver to the county treasurer an order on every such agent, for a sum which shall be equal to six per centum, on the amount of the profit on premiums, stated to have been received by such agent; which sum said treasurer shall receive, account for, and pay over as other moneys collected for State taxes.

County auditor
to draw on agent
for six per cent.
on profits

Sec. 6. That if any agent of any insurance company shall fail, in any respect, to comply with the condition of his bond, given as hereinbefore prescribed, it shall be the duty of the county treasurer forthwith, after such breach, to sue for, and collect the same, before any court of competent jurisdiction, and to account for and pay over the money so collected, in the same manner as he is required to account for and pay moneys collected for State taxes.

Agent failing to
comply, treasu-
rer to sue on his
bond

Sec. 7. That so much of the act, entitled "An act to amend the act, entitled 'An act to incorporate certain banks therein named, and to extend the charters of existing incorporated banks,' passed 5th day of February, 1825, as imposes a tax of four per cent. on the dividends of banks; and, 'An act to tax insurance companies,' passed February 22d, 1830; be, and the same are hereby repealed: *Provided*, That all bank and insurance companies, from which there may be due any taxes, or any per centum, on undeclared dividends, on the first day of April next, shall be chargeable for the same, and account therefor, in the statements which they are required to make to the auditor of State, by the provisions of this act.

Acts repealed

This act shall take effect and be in force from and after the first day of April next.

JAMES M. BELL,
Speaker of the House of Representatives.

March 12, 1831.

SAMUEL R. MILLER,
Speaker of the Senate.

AN ACT to levy a tax on the income of practicing Lawyers and Physicians.

County assessor's duties

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of the assessors of the several counties in this State, annually, at the time they shall take lists of the taxable property of their respective counties, to make out a separate list of all the practicing lawyers and physicians, resident in the county; which list they shall return with the list of taxable property, to the auditor of the proper county.

County auditor and commissioner's duty

Sec. 2. That it shall be the duty of the auditor and commissioners of the several counties, at their meeting in June, annually, to examine, and if necessary, add to or correct said list, and estimate the annual income of each of the said practicing lawyers and physicians, and charge a tax upon each, according to the amount of his income, not exceeding the sum of five dollars; which tax shall be put upon the duplicate of the current year, and collected as other taxes, and paid by the collector to the treasurer of State, for State purposes.

Repealing clause

Sec. 3. That the act, entitled "An act supplementary to the several acts regulating the admission and practice of attorneys and counsellors at law, and for regulating the practice of physicians and surgeons, within this State," passed 7th February, 1825, be, and the same is hereby repealed: *Provided,* That in every case wherein a sum may have been affixed on the list made out by the court of common pleas, and charged to any practitioner as aforesaid, under the said act; which sum shall not have been paid into the county treasury, or having been so paid, but not paid over into the State treasury; the same shall be recovered and paid over in the same manner as if the said act had remained in full force.

THOMAS L. HAMER,
Speaker of the House of Representatives.

February 22, 1830.

ROBERT LUCAS,
Speaker of the Senate.

AN ACT regulating sales at auction.

Sales at auction without license prohibited

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be unlawful for any person to exercise the trade or occupation of auctioneer, or to sell, by way of public auction, vendue, or out-cry, either directly or indirectly, in this

state, any property or effects whatsoever, except utensils of husbandry, and household furniture at the dwelling of the owners, on farms, horses, neat cattle, hogs and sheep, without license, as herein provided for; and if any person shall exercise the trade or occupation of auctioneer, or shall sell or attempt to sell, by way of public vendue, auction or out-cry, in this State, any property or effects whatsoever, except as aforesaid, without such license, every person so offending shall, for every such offence, forfeit and pay to the State of Ohio, a sum not exceeding five hundred dollars, nor less than one hundred dollars.

Sec. 2. That the prohibition aforesaid shall not extend to any officer, or person executing any process or order of any court in this State, selling any property or effects, directed by law, or by such process or order, to be sold by public vendue, auction or out-cry.

Sales under process or order of court excepted

Sec. 3. That the several courts of common pleas in this State, shall, in their respective counties, have power and authority to appoint and license such number of suitable persons residing in such county, as may be proper to exercise the trade or occupation of auctioneer, and make sales by auction, according to law, within such county, for the term of one year from the date of such appointment.

Common pleas to appoint and license auctioneers

Sec. 4. That applications for license to make sales by public auction in this State, shall be by petition in writing, addressed to the court of common pleas of the proper county; and, if for license to make such sales in Hamilton county, shall set forth the particular class or classes, and description of property or goods, to be included in the license, and the house or store where the applicant intends holding his auctions.

Applications for license to be by petition, and in Hamilton county must state the class of goods, and the place where auction is to be held

Sec. 5. That every auctioneer appointed under the provisions of this act, before he shall receive license, or enter upon the duties of his appointment, shall give bond to the State of Ohio, with one or more sufficient securities, to be approved of and accepted by the court granting the license, in the sum required in the thirteenth section of this act, conditioned for the faithful discharge of his duty, and for the payment of the duties that are, or shall be, imposed by law, and that shall accrue on sales made by him, and shall file the same with the treasurer of the county, and pay to such treasurer the sum of money required in the thirteenth section of this act, for such license, and take duplicate receipts for the same; one of which receipts shall be delivered to the auditor of the county, who shall file the same in his office, and certify the payment to the clerk of the court making the appointment; and, upon such certificate, the clerk shall issue license, in proper form, under seal of such court, granting to the auctioneer so appointed, full power and authority to set up and expose to sale by auction, property and effects, according to his appointment: and, if for the county

Auctioneer to give bond before receiving license

of Hamilton; specifying the particular class or classes, and description of property or goods, to be included in the license; for which the clerk shall be entitled to one dollar as his fee, to be paid by the auctioneer, on the delivery of the same.

Rates of duty on
sales at auction

Sec. 6. That all property and effects, which shall at any time be exposed to sale by public auction in this State, with the exceptions mentioned in the first and second sections of this act, shall be subject, each and every time the same shall be struck off, to duties at the following rates, to be calculated on the sums for which the property or effects, so exposed to sale, shall be struck off, namely. 1st. All houses, lots, lands, vessels and boats, including engines, tackle, apparel and furniture belonging to boats and vessels, at the rate of one dollar on every hundred dollars. 2d. All sugars, melasses, coffee, teas, spices, salt, fish, oil, queens-ware, glass-ware, wines and ardent spirits, at the rate of one dollar and fifty cents for every hundred dollars. 3d. All dry goods, hardware and cutlery, household furniture, and all other articles not included in the foregoing classes, at the rate of two dollars on every hundred dollars.

Auctioneer or
owner being the
highest bidder,
shall be subject
to same duties as
others

Sec. 7. That all property and effects sold by auction, shall in all cases be sold to the highest bidder; and where the auctioneer or owner, or any person employed by him, or either of them, shall be such bidder, they shall be subject to the same duties as if struck off to any other person: but this section shall not be construed to render valid any sale that would otherwise be deemed fraudulent and void.

Sales by auc-
tioneer on com-
mission, subject
to same duties

Sec. 8. That all property and effects which shall be sold by an auctioneer, on commission, whether by auction or at private sale, shall be subject to the duties enumerated in the sixth section of this act; and if any person other than a licensed auctioneer, on the day, and at the place, where any public auction shall be held, shall sell at private sale any property or effects liable to auction duties, every person so offending, shall forfeit and pay to the State of Ohio a sum equal to the price for which such property or effects shall have been sold.

Auctioneer in
the county of
Hamilton, hold-
ing his auctions
at more than one
house, &c., or
selling goods not
included in his
license, shall for-
feit not exceed-
ing \$100 for
every such of-
fense

Sec. 9. That if any auctioneer in Hamilton county, shall, at any time, have more than one house or store, for the purpose of holding his auctions; or shall hold sales at the house or store of any other person following the business of receiving furniture or goods, for the purpose of selling them at auction; or at any place other than his known sale room, except it be houses, lots, lands, vessels, boats and engines, or furniture belonging to the same; or furniture or goods at the dwelling house or store of the owner, cargoes on board of the steam boats and other vessels, or landed on the wharves, or stored in the warehouses of the owners of such goods; or shall sell or offer for sale, at the house or store kept by him for the purpose of holding his auctions, or elsewhere, by public auction, any property or effects liable to auction duties, and not included in his license:

every auctioneer so offending shall, for every such offence, forfeit and pay to the State of Ohio, a sum not exceeding one hundred dollars, with costs of prosecution.

Sec. 10. That if any auctioneer shall associate with him, in any manner whatever, any person who shall derive profit or advantage from the sale of any property or effects by auction, or shall associate himself in any manner whatever with a commission merchant, or other person, and shall derive profit or advantage from the sale of any goods or articles on commission, which would be subject to auction duty if sold by auction; all such goods or articles, which shall be sold on commission at private sale, by the person or persons with whom such auctioneer shall be so associated, or by any person in his or their employ, shall be subject to the duties enumerated in the sixth section of this act.

Goods sold by commission merchant associated with auctioneer, subject to auction duties

Sec. 11. That if any auctioneer shall farm out his office to another, or derive profit or advantage from any sales by auction that are not superintended by himself personally; every auctioneer so offending shall be deemed guilty of a misdemeanor, and on conviction thereof before the court of common pleas of the proper county, shall, for such offence, forfeit and pay to the State of Ohio, a sum not exceeding one thousand dollars, nor less than one hundred dollars, with costs of prosecution; and shall, moreover, forfeit his license: *Provided*. That in case of sickness, or necessary absence, of any auctioneer, any sale appointed by him, may be made under the personal superintendence of his known clerk.

Auctioneer farming out his office shall forfeit his license, and be subject to a penalty

Sec. 12. That every licensed auctioneer in this State shall make out, in writing, a quarterly account, dated on the first days of March, June, September, and December, in the year for which he shall have been appointed; and shall therein state minutely and particularly, 1st: The sums for which any property or effects shall have been sold, at every auction held by him, from the date of his license, or from the date of his last quarterly account; the names of the persons on whose account such sale was made; the day of sale; and the amount of each day's sale. 2d: The amount of all other sales made by himself or any person associated with him, or by any person in his or their employ, if property or effects liable to auction duties under any of the provisions of this act; the days on which such sales were made, and the name of the person making such sale. 3d: The amount of duties chargeable under the provisions of this act, on all sales, public and private, of property and effects subject to duties under any of the provisions of this act; and every such account shall be verified by a declaration of the auctioneer, in the words following; viz: "I, A B, do solemnly declare that the account now exhibited by me, and to which I have subscribed my name, contains a full and true statement and exhibit of all the property and effects, of every class and description, sold or struck off, or bought in, by me, at public sale,

Auctioneer to make quarterly accounts

Account to be verified

Form of oath.

or sold by me at private sale, on commission; or sold, struck off, or bought in, as aforesaid, by others, in my name or under my direction, or for my benefit; and, so far as I know or believe, of all goods and effects sold by any person in my employ, or connected with me in business, and subject to duties according to the provisions of the "Act regulating sales at auction," within the time stated in this account; and that the full amount of duties, chargeable according to law, on all such property and effects, is therein truly stated:" which declaration shall be indorsed on the account, and shall be subscribed and sworn to, or affirmed, by the auctioneer making it, before a justice of the peace, or some other officer authorized to administer oaths; who shall certify the same: and the said auctioneer shall, within fifteen days from the date of such account, deliver the same to the county treasurer; and shall, at the same time, pay to the said treasurer the amount of duties accruing on the sales mentioned in the account: and if any auctioneer shall neglect or refuse to exhibit any quarterly account, and deliver the same properly verified as aforesaid, or shall neglect or refuse to make payment of the duties required by this act, to the treasurer of the proper county, within the time aforesaid; every auctioneer so offending, shall be deemed guilty of a misdemeanor, and, on conviction thereof before the court of common pleas of the proper county, shall pay a fine not exceeding one thousand dollars, with costs of prosecution, and shall forfeit his license; and shall, nevertheless, be liable for all such duties, to be recovered in an action of debt, in the name of the State of Ohio.

Auctioneer to
deposit account
with treasurer,
&c.

Penalty and for-
feiture for neg-
lecting

What sum shall
be paid for li-
cense

Sec. 13. That each and every auctioneer appointed under the provisions of this act, for any county other than the county of Hamilton, shall give bond according to the provisions of the fifth section of this act, in the penal sum of one thousand dollars, and shall pay for license to sell property and effects of every class and description, subject to auction duties, a sum not exceeding five hundred dollars, at the discretion of the court; and auctioneers appointed for the county of Hamilton, shall pay for license at the following rates, namely: 1. To sell property and effects of every class and description, subject to auction duties, a sum not exceeding one thousand dollars, nor less than six hundred dollars, at the discretion of the court; and shall give bond, according to the provisions of the fifth section of this act, in the penal sum of three thousand dollars. 2. To sell dry goods, hardware and cutlery, queenware, glass and glass ware, sugars, molasses, teas, spices; coffee, salt, fish, oil, iron, books and stationery, hats, boots, shoes, wines and ardent spirits, the sum of five hundred dollars; and shall give bond, according to the provisions of the fifth section of this act, in the penal sum of two thousand dollars. 3. To sell all other property and effects, subject to auction duties, and not enumerated in the second class aforesaid, a sum not exceeding one

hundred dollars, at the discretion of the court; and shall give bond, according to the provisions of the fifth section of this act, in the penal sum of one thousand dollars.

Sec. 14. That all moneys raised by way of tax, penalty, ^{Money accruing under this act, where and how paid} or otherwise, under the provisions of this act, shall be paid into the treasury of the proper county; for which duplicate receipts shall be taken by the person making such payment: one of which receipts he shall deliver to the auditor of the county, who shall file the same in his office, and charge the treasurer therewith: and it shall be the duty of each and every county treasurer with whom any money may be deposited in conformity with the provisions of this act, on or before the fifteenth day of January, in each and every year, to transmit to the auditor of State, a correct account of all moneys so by him received, and to pay to the treasurer of State all such moneys, not otherwise appropriated by law, after deducting therefrom two per centum, to be computed on the amount received and paid over by such treasurer, as his compensation.

Sec. 15. That it shall be the duty of the sheriff, or other ^{Duty of sheriff, &c., receiving money under this act} officer, who shall collect and receive any fine or penalty imposed under the provisions of this act, to pay the same to the treasurer of the proper county, within ten days after receiving the same.

Sec. 16. That if any county treasurer, sheriff, or other officer, shall neglect to perform the duties required by this act, ^{Forfeiture for neglect of duty under this act:} he shall forfeit and pay to the State of Ohio the sum of one hundred dollars, over and above the amount of money which ought to have been paid over by such county treasurer, sheriff, or other officer.

Sec. 17. That one half of all moneys raised, collected or recovered, as aforesaid, in the county of Hamilton, shall be ^{Appropriation of money accruing under this act:} paid over by the treasurer of said county to the treasurer of the township of Cincinnati, for the use of "The Commercial Hospital and Lunatic Asylum for the State of Ohio;" and the residue of all moneys raised, collected or recovered in said county, and not otherwise appropriated by law, shall be paid to the treasurer of State: and all moneys paid into the State treasury, under the provisions of this act, shall be set apart as a fund to be applied by the Legislature to literary purposes, under such regulations as may be provided by law.

Sec. 18. That it shall be the duty of the auditor of each ^{County auditor to transmit a statement of receipts to auditor of State &c.} and every county, with whom any auctioneer, or other person, may have filed the receipt or receipts of any county treasurer, according to the provisions of this act, to transmit a full and accurate statement of all such receipts to the auditor of State, on or before the fifteenth day of January, in each and every year.

Sec. 19. That all fines, penalties and forfeitures, imposed by and incurred under the provisions of this act, may be recovered by indictment before the court of common pleas of the county in which the offence shall have been committed, or by ^{Fines &c. recovered by indictment or action of debt}

Duty of president judge

action of debt, in the name of the State of Ohio: and it shall be the duty of the president of every such court, at every term, to give this act specially in charge to the grand jury.

Acts repealed

Sec. 20. That the act, entitled "An act levying a tax upon sales at auction in certain cases," passed February 18th, 1824; the act, entitled "An act to amend the act, entitled "An act levying a tax upon sales at auction in certain cases," passed January 19th, 1828; and the act, entitled "An act to amend an act levying a tax upon sales at auction in certain cases," passed February 18th, 1830; be, and the same are hereby repealed:

Saving clause

Provided, That such repeal shall not operate to defeat any license granted, or rights acquired, or to discharge any auctioneer, or other person, from any debt, tax, fine or penalty, due, accruing or imposed, under the provisions of the said repealed acts, or any of them; or to affect any suit or prosecution depending, or to be instituted, for the same: and the said acts shall be and continue in force for the purpose of collecting every such tax, fine, penalty, or sum of money so due or accruing: and all moneys raised, or which may be raised, under the provisions of the said repealed acts, shall be paid and accounted for according to the provisions of this act.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14, 1831.

AN ACT granting licenses and regulating taverns.

No person to keep a tavern without a license

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That no person shall be permitted to keep a tavern, without having obtained a license from the court of common pleas of the proper county, for that purpose.

Mode of application for license

Sec. 2. That every application to the court for a license to keep a tavern, shall be in writing, signed by the applicant; in which the applicant shall state the place where the tavern is proposed to be kept; and the applicant shall produce to the court satisfactory evidence, by his own affidavit or otherwise, of his having given twenty days' previous notice, by advertisements set up in three of the most public places in the township or neighborhood where the tavern is proposed to be kept, of his intention to apply to the next court for a license.

Court may grant license for one year

Sec. 3. That the court shall be authorized to grant a license to the applicant to keep a tavern at said place for the term of one year, on being satisfied that the notice required by this act has been given, and by the testimony of one or more creditable witnesses, present in court, that such tavern is necessary at said place, for the public convenience, that the applicant sustains a

good moral character, is provided with suitable accommodations, and is a suitable person to keep the same.

Sec. 4. That the court granting the license, shall fix the price thereof; which shall not be more than fifty dollars, nor less than five dollars, per annum, having proper regard to the apparent advantages of the applicant's situation for business; and the clerk of said court shall give the applicant a certificate of the same; and on the applicant's producing the county treasurer's receipt for the payment of the sum so fixed, he shall receive a license under the seal of the court, which shall continue for the term aforesaid.

Court to fix the price of license, and on payment thereof, license to issue

Sec. 5. That when the applicant shall apply to the court for a renewal of his or her license to keep a tavern in the same house, or at the same place where he or she kept the preceding year, the same evidence shall be required by the court, and the same proceedings shall be had, as is required by this act on granting a license; except that no notice of the intended application for the renewal of his or her license shall be required.

Renewal of license

Sec. 6. That when ten or more reputable freeholders, residing in the neighborhood of the place where a tavern is proposed to be kept, shall remonstrate, in writing, against the granting or renewal of any license; stating therein the reason why, in their opinion, such license ought not to be granted or renewed: the court shall be authorized to decide on the truth and validity of the facts stated in such remonstrance, and grant or refuse such license, or renewal of the same.

When ten freeholders remonstrate, court to take facts, and may grant or refuse license

Sec. 7. That, for the purpose of carrying into execution the powers granted to the court in the preceding section of this act, the court shall be authorized to cause subpoenas, or other process to be issued, to compel the attendance of such witnesses as shall be named by the attorney for the State, for the proper county, to give evidence in the matter pending before said court; and said court, on the request of the said applicant, or his or her counsel, may cause like process to be issued, to compel the attendance of witnesses to sustain his or her application.

Court may compel the attendance of witnesses to testify concerning the application

Sec. 8. That if the applicant shall dismiss his or her application, pending as aforesaid, or if the court, on the hearing of the matter, shall refuse to grant to the applicant a license, the court, in such case, shall render a judgment against such applicant for the costs, and shall cause execution to be issued for the same, as in other cases.

Applicant failing shall pay costs

Sec. 9. That if, on the hearing of the matter as aforesaid, the court shall grant to the applicant a license, the fees of the clerk, sheriff and witnesses, arising or accruing from the summoning of the witnesses named by said attorney for the State, shall be paid out of the county treasury, on the certificate of the clerk, and on the order of the county auditor.

If license be granted costs to be paid out of the county treasury

Sec. 10. That the fees of witnesses, clerk and sheriff, for services rendered by virtue of any of the foregoing provisions of this act, shall be the same as for like services in other cases.

Fees same as in other cases

Renewal of license expiring in vacation, shall exonerate from penalty

Secd 11. That when a license for a tavern shall expire in the vacation, and the person who obtained the same shall procure a renewal, the latter license shall include the time from the expiration of the former, as well as the time to which it shall extend in future; and the applicant shall pay a ratable proportion for the whole time therein mentioned, and shall thereupon be exonerated from any penalty to which he or she would otherwise be liable by the provisions of this act.

Penalty and forfeiture for permitting rioting, &c. in taverns

Sec. 12. That if any licensed tavern keeper shall permit or allow any kind of rioting or reveling, gambling, intoxication or drunkenness, in his or her house, or on his or her premises; every such tavern keeper shall, for every such offence, forfeit and pay, for the use of the proper county, a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered, with costs, on the indictment of the grand jury, in the court of common pleas of the county in which the offence shall have been committed: and the license of such tavern keeper, if licensed, shall thereupon be forfeited, and the court shall not re-license such tavern keeper for the space of twelve months thereafter.

Clerk to furnish grand jury with a list of licenses

Sec. 13. That every clerk of the court of common pleas, shall, on the first day of the term of each court, deliver to the grand jury an accurate list of all persons holding tavern license within his county.

This act to be given in charge to grand jury

Sec. 14. That it shall be the duty of the presiding judge to give this act in charge to the grand jury, at each and every term of the court of common pleas of any county in this State; and the grand jury shall make strict inquiry, and return bills of indictment against every person violating any of the provisions thereof.

Penalty for keeping a tavern or retailing liquors without license

Sec. 15. That if any person shall keep a tavern, or retail spirituous liquor; or shall vend or sell any spirituous liquors of any kind whatever, to be drunk in the place where sold; or shall vend or sell such spirituous liquors by less quantity than one quart, without being duly licensed as a keeper of such tavern: each and every person so offending, shall forfeit and pay, for each offence, any sum not exceeding one hundred dollars, nor less than five dollars, to and for the use of the county in which the offence shall have been committed; to be recovered, with costs, by indictment in the court of common pleas of the proper county.

Prosecutions in the name of the State

Sec. 16. That all prosecutions or suits instituted under the provisions of this act, shall be in the name of the State of Ohio; and the court taking cognizance thereof, shall keep a record of all fines and forfeitures under the same: and every sheriff or other officer, shall pay over all moneys, within twenty days after receiving the same, into the county treasury; and the clerk of the court of common pleas, before whom any fines are recovered, shall present an accurate list thereof to the county auditor, on or before the first day of June, annually; and the clerks of said courts shall, in like manner, return a list of all licenses by them issued under this act, to whom, and the price of each respectively.

Sec. 17. That it shall be the duty of the county auditor, and the attorney for the State, in each county, to give information, and State's attor
and prosecute all offenders against any of the provisions of this act. Duty of auditor
and State's attor
ney to inform

Sec. 18. That every person obtaining a license under the provisions of this act, shall pay to the clerk fifty cents for such license. Clerk's fees

Sec. 19. That so much of the act, entitled "An act granting licenses and regulating ferries, taverns and stores," passed February sixth, A. D. eighteen hundred and twenty-four, as comes within [the] purview of this act; and also the act, entitled "An act to regulate grocers and retailers of spirituous liquors," passed January twenty-eighth, A. D. eighteen hundred and twenty-nine; and all other acts, or parts of acts, coming within the purview of this act; be, and the same are hereby repealed: *Provided*, That all offences committed prior to the taking effect of this act, shall be prosecuted and punished in the same manner as if this act had never been passed: *And provided also*, That nothing in this act contained shall be so construed as to repeal or interfere with any laws now in force, or which may hereafter be in force, regulating the granting of licenses to grocers in any city or incorporated town, or towns hereafter incorporated, by any law of this State. Acts repealed
Prov. &c

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 3, 1831.

AN ACT for granting Licenses in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the court of common pleas in any county, when in session, or the clerk of such court, in vacation, may grant licenses, under seal of the court, to pedlers or traveling merchants, to vend clocks not manufactured in this State, goods, wares and merchandise, throughout the State, for one year. Court of common pleas, or clerk, may grant licenses to pedlers

Sec. 2. The person applying for such license, shall pay into the county treasury, for the use of the State, the sum of fifty dollars for each wagon, cart or other carriage, or each boat or other water craft, employed in the conveyance of such clocks, goods, wares or merchandise. Price of license

Sec. 3. If any pedler or traveling merchant shall vend any clocks not manufactured in this State, goods, wares or merchandise, within this State, without first obtaining a license so to do, he shall forfeit and pay, for every such offence, not less than Penalty for pedling without license, and how recovered

twenty, nor more than one hundred dollars; to be recovered by an action of debt, in the name of the State of Ohio, before any justice of the peace having jurisdiction thereof, and paid over to the treasurer of the school district in which such offence shall be committed, for the use of schools therein: and if any such pedler or traveling merchant shall, on demand, refuse to exhibit his license to any person of full age, to whom he shall offer to vend any goods, wares or merchandise, such refusal shall be taken as conclusive evidence that he has no such license: *Provided*, That all mechanics and manufacturers shall be permitted to vend throughout this State, the goods or wares by them made or manufactured within the State, without obtaining license therefor: but nothing in this act shall be so construed, as to permit any pedler or traveling merchant to sell, either directly or indirectly, at vendue or public outcry, unless he shall have obtained a license, agreeably to the provisions of the "Act regulating sales at auction."

Previos

County treasurer to pay money into State treasury

Sec. 4. That each county treasurer who shall receive any money for licenses from pedlers or traveling merchants, under the provisions of this act, shall pay the same into the State treasury, at the time of paying over the State tax in January.

Person keeping a foal getter to pay five dollars into the treasury

Sec. 5. That every person who shall keep a stud horse as a foal-getter, within any county in this State, shall pay into the treasury of the county where such person resides, or if such person is not a resident of this State, then into the treasury of some county in which such horse is intended to be kept, the sum of five dollars, before using such horse as aforesaid, and shall take duplicate receipts for such payment; one of which he shall deposit with the county auditor: and the color, name and size of such horse, shall be so specified in such receipts as to identify the same; and such receipt shall have the effect of a license, and shall authorize such person to use such horse for the purpose aforesaid, for the term of one year from the date thereof.

Treasurer's receipt to have the effect of a license

Penalty for keeping foal getter without license

Sec. 6. That if any person shall keep or use any stud horse for the purpose aforesaid, without having paid into the county treasury the sum aforesaid, such person shall forfeit and pay the sum of thirty dollars; to be recovered by an action of debt, before any justice of the peace having jurisdiction thereof, in the name of the State of Ohio, for the use of the county in which such offence shall be committed.

Treasurer to sue for penalty

Sec. 7. That it shall be the duty of the county treasurer of each county, on the complaint of any person, to institute suit for the recovery of any forfeiture incurred under the provisions of the preceding section of this act.

This act to take effect from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 14, 1831.

AN ACT providing for the erection of Public Buildings.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there shall be erected and finished, in each county within this State, whenever the commissioners of the county may deem it necessary, a good and convenient court house, a strong and sufficient jail or prison for the reception and confinement of prisoners and criminals; also, one or more convenient fire proof buildings, in some convenient place or places near the court house, in which shall be kept the offices of the clerk of the supreme court, court of common pleas, sheriff, recorder of deeds, county auditor and county treasurer: *Provided, however*, That the commissioners aforesaid may, at their discretion, provide and finish one or more suitable rooms within the walls of the court house, or other building, for the use of the whole, or a part of the officers aforesaid; and the commissioners may assign such room or rooms to the sole and exclusive use of such officers, as they may deem expedient.

What public buildings shall be erected in each county

Provide

Sec. 2. That every court house, jail or other building to be erected as aforesaid, shall be formed of such materials, and of such dimensions, and on such place or places, as the commissioners shall direct, within the limits of the town wherein seat of justice of such county shall be established: and they are hereby authorized to plan and project such buildings, and to purchase for the use of the county, such ground as they may deem necessary, whereon to erect all or any part of the buildings aforesaid, the expense of which purchase shall be paid out of the county treasury.

Plan and site of the buildings to be under the direction of the commissioners

They may purchase site, etc.

Sec. 3. That the commissioners of each county are hereby authorized and required to build and construct, within the walls of each jail already erected, or which may hereafter be erected, one or more cells or dungeons, for the confinement of criminals, sentenced to solitary imprisonment; and the commissioners are hereby authorized to furnish, repair and alter any of the buildings specified in the first section of this act, already erected, or which may be erected, in any county within this State.

Cells to be constructed in the walls of the jail

Commissioners may repair or alter buildings already erected

Sec. 4. That when the commissioners shall determine to erect any of the buildings aforesaid, or finish, repair or alter any building already erected, or which may hereafter be erected, they may either receive sealed proposals for the performance of the whole or any part of the labor, or for furnishing materials, or may sell the same at public auction to the lowest bidder; and the person making the best proposals, or the lowest bid, (as the case may be) shall receive the contract, if, in the opinion of the commissioners, he is a proper person to undertake such work.

They may receive sealed proposals, or contract with the lowest bidder at public auction

Sec. 5. That before the commissioners shall enter into any such contract, they shall give notice, by advertisement published at least three weeks in succession, in a newspaper in general circulation in the county, or by posting up advertisements in five public places within the same; stating the day on which

Notice of the time and place of receiving proposals or holding the auction, shall be published three weeks

they will attend at the commissioners' office in said county, for the purpose of receiving proposals, or selling at public auction, (as the case may be) and entering into such contract: and the contractor shall enter into bond, payable to the State of Ohio, for the use of the county, with such securities as the commissioners shall approve; conditioned for the faithful performance of the contract, agreeably to the stipulations thereof: and on default of the contractor or contractors, for want of attention or competent knowledge to carry on the work agreeably to contract, the said commissioners shall have power to declare the contract vacated, and shall proceed to make another contract, as herein directed.

Contractor to give bond

For what causes contract may be declared vacated

Sheriff to have charge of the court house

Sec. 6. That the sheriff shall have charge of the court house, under the direction and control of the commissioners.

Donations and money in the treasury may be appropriated to the expense of the buildings

Sec. 7. That the commissioners are hereby authorized to receive donations of land, money or other property, and to appropriate the same, together with any money in the county treasury, belonging to the county, to the payment of the expense of erecting, finishing, repairing or altering any of the buildings aforesaid.

When the funds of the county are insufficient, additional tax may be levied to defray expenses

Sec. 8. That in case the funds of any county shall not be sufficient to defray the expenses of erecting the public buildings aforesaid, or to discharge any debts that have previously been contracted by the erection thereof, the county commissioners are hereby authorized to levy a tax, in addition to the tax which may be authorized to be levied for county purposes, not exceeding one half of the county tax aforesaid: and said additional tax shall be charged and levied on the same kinds of property which may be liable for county tax, and added to, and collected with, said county tax, by authority of the same duplicate, in the same manner, and within the same time, that said county tax may be collected.

Act repealed

Sec. 9. That the act, entitled "An act for the erection of public buildings," passed February the tenth, eighteen hundred and twenty-four, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 3, 1831.

AN ACT to authorize the establishment of Poor Houses.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of each and every county within this State, shall be, and they are hereby, authorized to erect

County commissioners may pur-

and establish poor houses within their respective counties, whenever, in their opinion, such a measure will be proper and advantageous; and for that purpose it shall be lawful for the said commissioners, to purchase such lot or tract of land as they may judge necessary for the accommodation of the institution: *Provided*, That if the commissioners of any county shall think proper to purchase land, and erect a county poor house, under the provisions of this act, the expense of such purchase and erection, shall be defrayed by a tax levied on the objects of county taxation for that express purpose; which tax shall be collected and paid over in the same manner that other taxes are collected.

Sec. 2. That whenever the commissioners of any county shall have completed a poor house for the reception of the poor, they shall immediately, on the completion of said house, meet and appoint three judicious persons, residents of such county, who shall form a board of directors, to take charge of, and manage the affairs of such poor house, agreeably to the provisions of this act: and the directors so appointed, shall, previous to their entering on the duties of their appointment, take an oath or affirmation, faithfully to discharge the duties of their office; and shall continue in office one year, and until their successors are appointed and qualified; and said board of directors shall appoint a clerk of their own body, whose duty shall be defined by the board: and if a vacancy shall happen in the board of directors, the county commissioners shall appoint some suitable person or persons to fill such vacancy, and who shall hold his or their office until the next annual meeting.

Sec. 3. That the board of directors, or a majority of them, shall form a quorum to transact business; shall be a body corporate and politic, with perpetual succession; and shall be known by the name of the Board of Directors of the poor house of _____ county. (the name of their county;) and by that name, they may sue and be sued, defend and be defended, in any court within this State: they may have a common seal, which they may alter or change: they may make all such contracts and purchases as may be necessary for the institution; and may prescribe such rules and regulations as they may think proper, for the management and good government of the same, and for introducing the practice of sobriety, morality and industry among its inhabitants: they shall meet quarterly yearly at such place as they may agree on; and the president may call a special meeting of the board at any time he may deem it necessary.

Sec. 4. That the board of directors shall appoint a superintendent, who shall reside in some apartment in the poor house, or other building contiguous thereto; and shall receive such compensation for his services, perform such duties, and give such security for their faithful performance, as the board shall judge proper: he shall be governed in all respects by the rules

Duty of superintendent

and regulations of the board, and may be removed by them at pleasure: he may require all persons received into the poor house, to perform such reasonable and moderate labor as may be suited to their ages and bodily strength; the proceeds of which shall be appropriated to the use of the institution, in such manner as the board of directors may point out: the superintendent shall receive into the poor house, any person who shall produce to him such an order or voucher as is hereinafter required; and he shall enter in a book to be provided by him, and kept for that purpose, the name and age, as near as may be, of every person so received into the poor house, together with the day on which such person was received.

Committee of the directors to visit the poor house every month

Sec. 5. That the board of directors shall cause the poor house to be visited at least once in every month, by a committee of their body; which committee shall carefully examine the condition of the paupers, the manner in which they are fed, clothed and otherwise provided for and treated: they shall ascertain what labor they are required to perform, and shall inspect the books and accounts of the superintendent, and make report thereof at the next meeting of the board.

Directors to report annually to commissioners

Sec. 6. That the board of directors shall, yearly, and every year, report to the commissioners of the county, the state of the institution, with a full and correct account of all their proceedings, contracts and disbursements: and the expense of establishing and supporting the institution, shall be paid on the order of the county auditor, by the direction of the commissioners, out of any money in the county treasury not otherwise appropriated.

Directors may bind out the children of paupers

Sec. 7. That the directors aforesaid, shall have power to bind out to apprenticeship, all such poor children as may belong to such poor house; males until the age of twenty-one, and females until the age of eighteen years, in the same manner that trustees of townships are authorized to do, by the provisions of the act, entitled "An act concerning apprentices and servants:" *Provided*, That whenever any such children shall be incapacitated, by reason of some bodily or mental infirmity, of receiving the instruction contemplated in said act, they shall not bind the master or mistress to furnish the same.

Provided

Expense of removing paupers to poor house, how paid

Sec. 8. That in every county within which a county poor house is, or may be erected and established, it shall be the duty of the directors of such poor house, to give an order on the auditor of the county, for the payment of such reasonable and necessary expense as may have been incurred by any township in removing any pauper to the poor house, or that may have been incurred immediately preceding such removal, by reason of delay caused by the sickness of such pauper; and the auditor shall draw his order on the county treasurer for such amount, to be paid out of any money in the treasury not otherwise appropriated: *Provided*, That it shall not be lawful for the directors to give such order, unless they shall previously determine that such pauper is legally a county charge.

Sec. 9. That no person shall be admitted to any such poor house as a pauper, unless upon the order or warrant of the trustees of the proper township, directed to the board of directors of the poor house of the proper county; which order or warrant shall be accompanied by a statement of facts signed by said trustees, setting forth the name, age, birth place, length of residence, previous habits and present condition of the person claiming to be a pauper, together with the time or times at which such person or persons, if not a native of the township, has been warned to depart therefrom; and if neglected to be warned or removed, the reason or cause of such neglect: and if, on a full examination of the facts or circumstances touching the right of such pauper to admission into the poor house, which may come to the knowledge of the directors, they shall be of opinion, from the failure or neglect of duty on the part of the overseers of the poor, or from want of the proper legal residence, or from any other cause, such person is not legally chargeable to the county as a pauper, he or she shall not be admitted to the poor house: and the superintendent shall not admit any person into the poor house as a pauper, unless upon the order of a member of the board of directors.

Manner of admitting paupers into the poor house

Sec. 10. That in case any person shall be at present, or may hereafter be, in any poor house, supported as a pauper, whose proper place of residence is in another State or county, it shall be lawful for the board of directors of such poor house, to cause such pauper to be removed to his or her proper place of residence, in the same manner as overseers of the poor are authorized and required to remove persons not legally chargeable, by virtue of the provisions of the act, entitled "An act for the relief of the poor;" and all the power and authority vested in the overseers of the poor, by and in virtue of said act, necessary to carry into effect the provisions of this section, are hereby conferred upon the directors of poor houses, for the purposes herein mentioned.

Directors may cause paupers to be removed to their place of residence

Sec. 11. That where any person has been, or shall hereafter be, received into any poor house as a pauper, on account of any infirmity or disease, the directors of such poor house, may, when in their opinion, such person is so far restored to health and bodily strength, as to be able to support himself or herself, direct the superintendent of such poor house to discharge such person therefrom.

Paupers when restored, may be discharged from poor house

Sec. 12. That if any paupers shall be in a situation that will not admit of their removal to the poor house, or to their proper residence, the directors of the poor house shall have power to provide for the maintenance and support of such paupers out of the county treasury, in the same manner as if such paupers were in the poor house, until their condition will admit of their removal to the poor house, or to their proper residence.

Directors may provide for paupers out of poor house in certain cases

Sec. 13. That the commissioners of the county shall have

Commissioners
may sell part of
lands belonging
to poor house

power, whenever they may deem it expedient, to sell and convey any part of the lands belonging to the poor house of their proper county; and the proceeds arising from such sale, shall be paid by the commissioners into the county treasury, for the use of the county.

Commissioners
may levy tax for
the support of
the poor

Sec. 14. That the county commissioners be, and they are hereby, authorized and empowered, in case the ordinary revenue of the county shall prove insufficient for the support of the poor, to levy and collect a poor tax, not exceeding one mill on the dollar of the valuation of the property taxable for State and county purposes, to be entered on the grand list, and collected as other taxes.

Compensation of
directors

Sec. 15. That the county commissioners may allow the directors for their services, such sum as they may deem reasonable, not exceeding one dollar and fifty cents each, for every day they may be necessarily employed in the duties of their appointment, to be paid out of the county treasury, upon the order of the auditor.

Acts repealed

Sec. 16. That the act, entitled "An act to authorize the establishment of poor houses," passed February twenty-sixth, eighteen hundred and sixteen; and "An act to amend an act, entitled 'An act to authorize the establishment of poor houses,'" passed January twenty-sixth, eighteen hundred and twenty-seven; and "An act in addition to the several acts establishing and regulating poor houses," passed January nineteenth, eighteen hundred and twenty nine; be, and the same are hereby repealed: *Provided*, That no act done, and no obligation or liability incurred, under any of the provisions of said acts, shall be in any wise affected by the repeal thereof.

Proviso

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 8, 1831.

AN ACT for the relief of the poor.

What shall be
considered a legal
settlement

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That any person or persons, other than those hereinafter provided for, residing one year in any township in this State, without being warned by the overseers of the poor for said township to depart the same; or three years after being once so warned, without being again warned as aforesaid, shall be considered as having gained a legal settlement in such township: every indentured servant or apprentice, legally brought into this State, shall obtain a legal settlement in the township where

such servant or apprentice first served his master or mistress three years: and every married woman, during coverture, and after her husband's death, shall be considered legally settled in the place where he was last legally settled; but if he shall have, or shall have had, no known legal settlement, then she shall be considered as settled in the place where she was last legally settled before marriage.

Sec. 2. That nothing in this act shall be so construed as to enable any black or mulatto person to gain a legal settlement in this State. Blacks not to gain a settlement

Sec. 3. That the provisions of the first section of this act shall not be so construed, as to exclude any persons from voting at elections, who would otherwise, by the constitution and laws of this State, be entitled to vote. This act not to exclude from voting

Sec. 4. The overseers of the poor, upon receiving information that any person has come within the limits of their township to reside, who will be likely to become a township charge, shall issue their warrant or order to any constable of the township, commanding such constable forthwith to warn such person to depart the township, by reading such warrant or order of the overseers of the poor, in his or her presence and hearing, or by leaving an attested copy thereof at his or her last place of residence: and it shall be the duty of such constable, receiving such warrant or order, to make immediate service thereof, in manner above directed, and to certify on the back of such warrant, that he read the same in the presence or hearing of the person therein named, to depart the township, or left an attested copy thereof at his or her last place of residence, as the case may be; which warrant the said constable shall immediately lodge with the clerk of said township, who shall record the same, and the certificate of the constable indorsed thereon, within three days thereafter, in the book containing the records of the township. Persons may be warned to depart the township

Sec. 5. That upon complaint being made, or information given, to the trustees of a township in any county having a county poor house, that any inhabitant of such township, having a legal settlement therein, is in a suffering condition, and requires public assistance or support, said trustees shall inquire into the condition and necessities of such person; and if satisfied that such person ought to be relieved at public expense, they shall make out an order to the directors of the poor house, to receive and provide for such person, and shall accompany said order with the statement required by the act to authorize the establishment of poor houses. Duty of township trustees in counties having poor houses

Sec. 6. That when the overseers of the poor of any township, in any county having no county poor house, shall be satisfied that any person having a legal settlement in such township, is in a suffering condition, and ought to be relieved at the expense of such township, they may afford such relief at the expense of their township, as in their opinion the necessities of Duty of the overseers of the poor in counties not having poor houses

Overseers may contract for the support of paupers after seven days' notice

such person may require: and when more than temporary relief is required, the overseers shall set up a notification in three public places in their township, specifying some time and place at which they will attend, for the purpose of receiving proposals for the maintenance of such pauper; which notification shall be posted up at least seven days before the day named therein for receiving such proposals; and said overseers may contract with such person as they shall think suitable to take charge of, and maintain such pauper, and who will do the same on the most reasonable terms: but they shall not contract for the support of such pauper for a longer period than one year, at any one time.

Overseers shall provide for paupers rejected by the directors of the poor house

Sec. 7. That if the trustees of any township, in a county having a county poor house, shall issue an order to the directors of such poor house, requiring them to receive and provide for any pauper, and such pauper be rejected by said directors, under the provisions of the ninth section of the act to authorize the establishment of poor houses; the overseers of the poor of such township, shall receive and provide for such pauper, according to the provisions of the preceding section of this act.

They shall afford temporary relief to persons who have not gained a settlement

Sec. 8. The overseers of the poor of each township, shall also afford temporary relief or support to any person within their township, and not having a legal settlement in the same, when such relief or support is needed.

They shall remove paupers to the township where they have a legal settlement, &c.

Sec. 9. That if any person or persons shall become chargeable in any township in which he, she or they have not gained a legal settlement, it shall be the duty of the overseers of the poor of such township, to cause such person or persons, so soon as the State of his, her or their health will permit, to be removed to the township where he, she or they were last legally settled, (if such person or persons have any legal settlement in this State;) and the overseers of the poor of such township shall receive such pauper or paupers, thus removed, and provide for his, her or their maintenance, in the manner pointed out by law: and the township in which such pauper or paupers have gained a legal settlement, and to which he, she or they are transported, shall pay the said overseers of the township which have thus supported and removed said pauper or paupers, all reasonable charges for such support and removal; and upon refusal, may be compelled, by an action of debt, brought against the trustees of said township, before the court of common pleas of the county in which either or both the townships may be situated; and the trustees of each and every township in this State, are hereby empowered to sustain said action against the trustees of any other township in this State, for thus supporting and removing their own pauper.

Expenses, how paid

Suit may be sustained against the trustees for such expense

Overseers may remove paupers to their place of settlement beyond the State

Sec. 10. That in case any person or persons, becoming chargeable to any township as aforesaid, shall have no legal settlement within this State, the overseers of the poor in such township, if directed by the trustees, may remove such person

or persons to the State or county where he, she or they, have a legal settlement, unless such person or persons shall give sufficient security to indemnify the said township.

Sec. 11. That the said overseers shall keep fair and accurate accounts of all expenses incurred for the support of the poor within their respective townships, and make entries in a book of the names of the poor, and the time when each of them became chargeable, together with an account of their own services rendered: and on the first Monday of March, annually, the said overseers shall meet the trustees of their respective townships, and exhibit said books and accounts; which the said trustees are hereby authorized to audit and allow, together with such compensation to the said overseers for their services, as shall, in the opinion of the said trustees, be deemed just and reasonable.

Sec. 12. That it shall be the duty of the trustees, in each and every township, to issue orders to the township treasurer, for any and all such demands as may accrue under the provisions of this act; and the said trustees may issue such orders on the treasury, in favor of the overseers of the poor, at any time during the year, when it shall be necessary to enable them to carry into effect any of the provisions of this act.

Sec. 13. That all gifts, grants, devises and bequests, hereafter to be made, of any houses, lands, tenements, rents, goods, chattels, sum or sums of money, to the poor of any township, by deed, gift, or by the last will and testament of any person or persons, or otherwise, shall be good and valid in law; and shall pass such houses, lands, tenements, rents, goods and chattels, to the trustees of such township, and their successors in office, for the use of their poor respectively, under such regulations as shall, from time to time, be made by law.

Sec. 14. That the act, entitled "An act for the relief of the poor," passed February 10th, 1816; and the act, entitled "An act to amend the act, entitled 'An act for the relief of the poor,'" passed February 12th, 1829; be, and the same are hereby repealed: *Provided*, that no liability or obligation incurred under any of the provisions of said acts, shall be in any wise affected or impaired by the repeal thereof.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 14, 1831.

AN ACT to provide for the safe keeping of Idiots, Lunatics, Insane persons, the protection of their property, and other purposes.

On complaint in writing, justice may issue warrant to bring idiot, etc. before him

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the justices of the peace in the respective townships within this State, are hereby empowered and required, upon application made to them, or either of them, in writing, by any of the relations of an idiot, lunatic or insane person, or by any overseer of the poor, or any other person, in the township where such person resides, to issue a warrant to any constable of said township, requiring him to bring such idiot, lunatic, or insane person, before such justice granting the warrant: and also, to summon seven discreet and disinterested freeholders, to appear at the same time and place: who being first duly sworn for that purpose, shall inquire into the case, and return their verdict in writing to the justice, whether the person complained of be an idiot, lunatic or insane: and shall moreover certify under their hands, whether, in their opinion, there is danger of such person destroying his, or her, own life or property, or the life or property of others, or whether such person ought to be put in confinement or not.

Justice to issue warrant to overseers of the poor to provide for idiots, etc.

Sec. 2. That in case the inquest, as provided by the first section of this act, shall set forth in their verdict, that such person is an idiot, lunatic, or insane, and do not certify, as their opinions, that such person ought to be put in close confinement, the justice shall issue his warrant to the overseers of the poor, of the township where he or she may have last resided, or been found, directing them to take care of, and provide for the maintenance, or otherwise dispose of such person, agreeably to the provisions of the act, entitled "An act for the relief of the poor:" and in case the inquest shall set forth in their verdict, that, in their opinion, there is danger of such person destroying life or property as aforesaid, and that he or she ought to be put in close confinement, then said justice shall commit such person to close confinement, in the jail of the county, (unless the friends or relatives shall give a bond, with sureties, for the safe keeping of such person, in a sum to be approved of by the justice, payable to the county treasurer, for the use of the county,) and shall set forth in the mittimus, the particular cause of commitment; and it shall be the duty of the jailer to receive and safely keep such person until he or she shall be discharged as hereinafter provided.

Jailer shall notify commissioners, who may employ physician

Sec. 3. That the jailer shall, within five days after receiving such person, notify the commissioners of the county to meet at the jail, on a particular day, not further distant than ten days, whose duty it shall be to meet accordingly; and they, or any two of them so met, shall carefully examine the state of such person, and if, in their opinion, medical aid shall be requisite, they shall employ some skillful physician to attend such person, and use such means as may be most conducive to restore the exercise of reason.

Sec. 4. That whenever such physician shall be of opinion that such person may be safely released, or ought to be otherwise disposed of, he shall make report thereof to the commissioners, who shall thereupon meet: and it shall be competent for them, at such meeting, or at any other time, upon due examination, to release or provide in whatever way they shall deem most advisable for keeping of such person; and also make such allowance to any physician or other person employed to keep or take care of such person, as they shall deem lawful and right.

On physician's report, prisoners released

Sec. 5. That in every case when any person is adjudged to be an idiot, lunatic or insane, on the verdict of a jury, agreeably to the provisions of the first section of this act, the justice of the peace receiving such verdict, shall issue his warrant to the overseers of the poor of the township, directing them to take charge of the estate, real and personal, of such person, and make an inventory thereof, and return the same to the clerk's office of the court of common pleas of their county, within ten days thereafter; which return the said clerk shall file in his office.

When verdict of jury finds a person an idiot, etc. overseers of poor to take charge of their estate

Sec. 6. That the overseers of the poor returning such inventory, shall apply to the court of common pleas, at their next session, to appoint a guardian or guardians to take charge of such idiot, lunatic or insane person: whereupon, the court shall make such appointment; and the guardian or guardians so appointed, shall give bond to said court in a reasonable sum, to its satisfaction, with sufficient sureties, for the use of such person, conditioned for the faithful discharge of their trust, and for rendering a true and just account of their guardianship, whenever thereunto required by the court: and the said court shall make such allowances to the overseers of the poor and guardians for their services, under this act, as they shall deem reasonable, to be paid out of the estate of such person; and in case the estate aforesaid shall be wholly expended in the charges and maintenance of such person, the county shall be chargeable with all further expenses that shall accrue.

Overseers of poor to apply to court and have guardians appointed

Sec. 7. That the overseers of the poor, who have in their hands any estate, real or personal, of any idiot, lunatic or insane person, for whom a guardian or guardians shall be appointed as aforesaid, shall deliver over such estate into the hands of the said guardian or guardians, and take a receipt therefor, which shall be filed in the office of the clerk of the court of common pleas of the county; and such guardian or guardians, shall improve frugally and without waste, such estate, or shall apply the same, or the annual profits thereof, for the maintenance of such person, or his or her family: and such guardian or guardians shall have power to settle accounts, to receive, sue for, and recover all debts and demands due to such person; to improve and manage the real estate, agreeably to law, in as full and ample a manner, as such idiot, lunatic or insane person could do, if he or she were restored to the true

Overseers of poor shall surrender estate to guardian

use of reason; and shall also be subject to the payment of all just debts, of such person, prior to his or her insanity or disability, out of the personal estate, or in case that be insufficient, then out of the real estate: and such guardian is hereby authorized to sell any real estate of such person, in case it may be necessary for the support or payment of the debts of such person, in such manner as executors or administrators are by law enabled to do: and in all cases where guardians are appointed under the provisions of this act, and their guardianship shall be required for a longer space of time than one year; it shall be, and it is hereby made their duty, to make report annually to the court of common pleas of the proper county, of the situation and condition of all property placed in their hands as guardians, and the receipts and disbursements of all moneys belonging to the estate placed under their care; which report shall be made under oath.

Court of c. p. to appoint guardians to children of idiots, etc., and may remove them for cause

Sec. 8. That the courts of common pleas in each county, are hereby empowered to appoint guardians for the children of idiot, lunatic or insane persons, in the same manner as though their parents were deceased; and for good cause, to remove such guardians, and appoint others in their stead, and fill any vacancy that may be occasioned by death or otherwise: *Provided*, That such guardianship shall cease at the time when, according to the provisions of this act, such idiot, lunatic, or insane person shall be adjudged to be restored to the use of his or her reason.

Jury of 7 may inquire whether idiot etc., restored to reason

Sec. 9. That upon the application of any of the friends, relatives or guardians of any idiot, lunatic or insane person, to any justice of the peace, he shall cause to be summoned and duly sworn, a like jury or inquest, as is directed in and by the first section of this act; and in case they shall by their verdict, to be returned in writing, declare that such person is restored to the use of his or her reason, the residue of the estate, real and personal, shall be delivered to such person.

When insane person escapes, etc., friends may apply by petition to court

Sec. 10. That in cases where any person owning property, either real or personal, within this State, hath, or shall, in consequence of mental derangement, abandon such property, and remove or escape, so that proceedings to ascertain whether such person be lunatic or insane, cannot be had under the provisions of this act; it shall be lawful for the relatives or friends of such person, to apply by petition to the court of common pleas of the county where any part of the real estate of such person may be situated, setting forth the facts, that such person owned property, and in consequence of mental derangement, had abandoned the same, and removed or escaped out of the country, and praying the court to proceed and inquire into the truth of the allegations in the petition contained.

Jury to be impaneled to

Sec. 11. That upon hearing the petition, the court shall order a jury to be impaneled before them, to inquire into the

facts in the petition stated; and such jury, after hearing the evidence, shall return a verdict according to the truth of the case: and if it shall be found by the verdict of the jury, that the facts stated in the petition are true, the court shall appoint a guardian or guardians, to take charge of the property of such person; which guardian or guardians shall give bond, and shall proceed in the same manner, have the same power, and be subject to the same rules and regulations, provided in cases of guardians, appointed under the provisions of this act.

try truth of petition; and if true guardian may be appointed

Sec. 12. That if any lunatic or insane person, shall return to the county from which he or she may have departed, and the court of common pleas shall, upon actual observation, adjudge that such person is restored to the use of his or her reason, they shall direct the residue of the property in the hands of the guardian, to be restored to such person.

If lunatic, etc., returns, court to order property restored

Sec. 13. That in case of any person owning real estate, within this State, and residing in another State or country, being adjudged a lunatic, idiot or insane person, according to the laws of the State or country where such person may reside, the committee or guardian of such person, appointed according to the laws of such State or country, may obtain possession and dispose of the real and personal estate of such person, within this State, in the manner following:—Such committee or guardian shall present to the court of common pleas of the county where any part of the property of such person may be, an authenticated transcript of the judgment, or commission of idiocy, lunacy or insanity, and of the appointment of such committee or guardian, to take charge of the estate of such person: and upon the court being satisfied that idiocy, lunacy or insanity still continues, and that the applicants are the same persons named in the proceedings, they shall make an order for such persons to take charge of such idiot's, lunatic's, or insane person's estate, real or personal, to be found in this State; and may authorize such committee or guardian to sell and convey the estate of such lunatic, idiot or insane person, upon such terms and conditions as the court may deem proper: and the guardian or committee of such person, in their proper names, may sustain any proper action for the recovery or protection of the person or property of such idiot, lunatic or insane person.

Guardians, etc., or non resident lunatics, etc., may sell real estate in this State, and how

Sec. 14. That when any person, declared and adjudged an idiot, lunatic or insane, before his visitation, shall have sold real estate within this State, and shall not have conveyed the same; or when the committee or guardian of a lunatic, idiot or insane person, in any other State or country, appointed according to the laws of such State or country, have already sold the real estate of such lunatic, idiot or insane person, lying within this State; in either case the court of common pleas of the county in which the lands may be situate, may authorize such committee

Guardians, etc., may complete contracts and make deeds in order of court

tee or guardian to complete the sale, by making a conveyance on such terms as the court shall deem just.

Security and
liability for costs

Sec. 15. That when the relatives of any person, alleged to be an idiot, lunatic or insane, or where any other person, (except the overseers of the poor) shall make application to any justice of the peace, according to the provisions of the first or ninth sections of this act, and such application shall not succeed, the person so applying shall be liable for costs; and said justice shall compel such applicant to give security for costs as in other cases: and when any other than the guardian of any idiot, lunatic or insane person, shall make application to any justice of the peace, according to the provisions of the ninth section of this act, such applicant shall give a written notice of such application to said guardian, by serving the same personally, or leaving a copy thereof at his residence, at least ten days before the time appointed for the hearing of such application.

Appeals allowed

Sec. 16. That an appeal shall be allowed to the court of common pleas, from inquests had under the provisions of this act, upon which appeal the court shall proceed to final judgment, as if the case had been commenced in the said court: *Provided, however,* That when any person shall, by the inquisition before the justice of the peace, be declared idiot, lunatic or insane, and an appeal be taken, the court shall appoint a guardian, at the term to which such appeal is taken, in the same manner as is provided in and by this act.

Guardians may
be appointed to
deaf and dumb
persons

Sec. 17. That the courts of common pleas, in the several counties in this State, shall have power to appoint guardians to all such deaf and dumb persons, whether they be minors or of full age, as may be incapable to take care of, or manage their estates; and shall require of any guardian or guardians, thus appointed, such bond and security as is by law required in case of minors; and their power shall extend to property, protection, education and maintenance, the same as in other cases of guardian and ward: *Provided always,* That said court of common pleas shall not appoint a guardian under the provisions of this section, unless the incapability to take care of, or manage the estate of the person applied for by such person, shall first have been ascertained by an inquiry, as provided for in the first section of this act.

County commis-
sioners may
make allowance
to indigent luna-
tics, &c.

Sec. 18. That the commissioners of any county in this State, in which there may be any idiot or lunatic, in indigent circumstances, shall, in their discretion, make such allowance as to them shall seem right, and the necessity of the case may require, and shall issue their order in favor of such idiot or lunatic, or their legal representatives, for the sum so allowed, to be paid out of the treasury of such county.

Acts repealed

Sec. 19. That the act to provide for the safe keeping of idiots, lunatics and insane persons, the protection of their

property, and other purposes, passed January eighth, one thousand eight hundred and twenty; and the amendatory act, passed February second, one thousand eight hundred and twenty-two; be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

January 23, 1824,

AN ACT for the relief of insolvent debtors.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the court of common pleas in each county shall appoint a person, to be denominated commissioner of insolvents, who shall give bond to the State of Ohio, in such sum as shall be required by the court, not less than one thousand dollars, with security to be approved by the court, conditioned for the faithful discharge of his duties as such commissioner; which bond shall be lodged with the treasurer of the county, by the clerk of the court. Court of comm. pleas to appoint a commissioner of insolvents, &c.

Sec. 2. That suits may be prosecuted on said bond, in the manner which now is or hereafter may be provided for the commencement and prosecution of suits on the bonds of executors, administrators and officers; and the court may, at any time after making such appointment, when it shall be deemed necessary, require such commissioner to give an additional bond, with further security, to be approved as aforesaid. Suits on bond, how prosecuted

Sec. 3. That commissioners so appointed shall take an oath before the court, to support the constitution of the United States and of this State; and also an oath, faithfully and impartially to perform the duties of commissioner of insolvents, as prescribed by law. Commissioner to take an oath

Sec. 4. That commissioners so appointed and qualified, shall hold their offices for the term of three years, (unless sooner removed by the court,) and until their successors are appointed and qualified; and they shall keep their respective offices at the seat of justice of the county, and shall be entitled to the use of one of the rooms in the public offices of the county, if any there be, not appropriated to the use of the other county officers. His term of office

Sec. 5. That the court making such appointment may, upon application of any person, and upon good cause shown, or for reasons apparent to the court, remove such commissioner from office: *Provided,* That ten days' notice in writing, of such intended application for such removal, shall be first given to the commissioner; which notice shall specify the reasons for such removal. Court may remove commissioner

INSOLVENT DEBTORS.

Sec. 6. That it shall be the duty of the commissioner to take charge of the property of all applicants for the relief contemplated by this act, who shall make the assignments hereinafter provided for.

Sec. 7. That any person desirous of having his body exempted from liability to imprisonment for debt, who shall have resided in this State two years next preceding his application, and in the county where such application is made, six months next preceding such application, shall deliver to said commissioner an accurate schedule in writing, of all debts by him owing; specifying the name of the person to whom due, and the original consideration of such debt, and whether the same is due by bond, note, or other contract in writing, or by book account, or otherwise.

Sec. 8. That when any person, whether a resident in this State or not, shall be arrested, or be in custody of any sheriff, or other officer, on mesne or final process, in any civil action, the officer having such person in custody, if requested by him, shall go with such person before the commissioner of insolvents of the county where such person shall be arrested, or in custody; whose duty it shall be, if required, to make out for such person in custody, and under his direction, such schedule as is required by the seventh section of this act, and also such as are hereinafter required.

Sec. 9. That any person making application to the commissioner, as provided either in the seventh or eighth section of this act, shall, in addition to the schedule therein required, make, or cause to be made by the commissioner, an accurate schedule in writing, of all debts and demands due to him, with a pertinent description of all contracts in which he is in any way interested, in his own right or otherwise; and shall, at the time of making such schedule, deliver to the commissioner, (if in the power of the applicant so to do,) all written evidences of such debts, contracts and demands, in his possession, or in any way subject to his control, together with all his books of account.

Sec. 10. That the person so applying, shall make and deliver to the commissioner an accurate inventory in writing, of all his property of every kind and description, real and personal, in possession, remainder, or reversion, to which he has any claim or demand; together with the written evidences, (if any he has,) of his title and right thereto.

Sec. 11. That before any person, making application as aforesaid, shall be entitled to a certificate from the commissioner as hereinafter provided, he shall make and deliver to the commissioner an assignment in writing, of all his property, rights and credits, of every kind and description; but no particular form of words shall be necessary to the validity of said assignment; and the same, when made and delivered to the commissioner, shall operate as a conveyance of all the property

of such applicant, and shall vest in the commissioner all the rights, legal and equitable, which such applicant had in, or to, any property, rights and credits, whether the same be mentioned or described in such schedules and inventory or not: and it shall be lawful for the commissioner to commence and prosecute suits and actions, at law and in chancery, in his own name, in the same manner that the applicant could have done before such assignment: *Provided*, That suits pending at the time of such assignment shall not abate, but may be prosecuted and defended by the commissioner, in the name of the applicant, to final judgment, as though such assignment had not been made.

Commissioner may sue in his own name

Sec. 12. That every assignment, transfer or conveyance of property, either real, personal, or mixed, made or executed by the applicant after his arrest, and before his examination before the commissioner, as herein provided, shall be utterly void and of no effect.

Transfer of property after arrest void

Sec. 13. That any person making application, as is provided in the seventh section of this act, shall, at the time of making such application, make and subscribe an oath or affirmation before the commissioner, in the following form, viz: I, A B, do swear [or affirm,] that I have resided in the State of Ohio, for two years, last past; and in the county of _____ in said State, for the last six months: that I have delivered up and assigned to the commissioner of insolvents of the county, all the property that I have, or claim any title to, or interest in: that the schedules and inventory of property, rights and credits by me made, contain, as far as I know or believe, a full description of all my property, rights, credits and claims, in possession, remainder, or reversion, (the necessary wearing apparel, and beds and bedding, of myself and family, and such other articles as are by law exempted from execution, excepted;) and also, all my bonds, notes, contracts in writing, and other contracts, in which I am beneficially interested: and that I have delivered the same to the commissioner, and also my books of account, and all written evidences of my right or title to any property whatsoever: and that I have not directly or indirectly, at any time, sold, conveyed, or disposed of, for the use of any person, any money or property, debt, right, or claim, or intrusted the same to or with any person, thereby to defraud my creditors, or any of them, or to secure the same, so that I, or my heirs, or any other person, shall receive or expect any profit or advantage therefrom.

Oath to be taken by person applying under the provisions of 7th section

Sec. 14. That persons applying under the seventh section of this act, shall, in all cases, give bond to the commissioner, with surety to his acceptance, in any sum required by him not less than two hundred dollars, conditioned that such applicant shall appear in the court of common pleas of the county, at such time as the commissioner shall return copies to said court, as hereinafter provided; and that the said applicant shall then

Applicant under seventh section to give bond

and there file his petition, and submit to a further examination, pay the costs of his said application and petition, and in all respects comply with the requisitions of this act.

Oath to be taken
by person apply-
ing under provi-
sions of eighth
section

Sec. 15. That when any person, being in custody of any officer, shall make application to the commissioner, as is provided in the eighth section of this act, he shall, at the time of making such application, make and subscribe an oath or affirmation, before the commissioner, in the following form, viz:

"I, A. B., do swear (or affirm) that I was not arrested, nor am I now in custody of an officer, at the suit of _____, by any collusion or combination with the said _____, or with any other person: that I have delivered up and assigned to the commissioner of insolvents of the county of _____, all the property that I have, or claim any title to, or interest in: that the schedules and inventory of any property, rights and credits by me made, contain, as far as I know or believe, a full description of all my property, rights, credits and claims, in possession, remainder, or reversion, (the necessary wearing apparel, and beds and bedding of myself and family, and such other articles as are by law exempted from execution, excepted): and also, all my bonds, notes, contracts in writing, and other contracts in which I am beneficially interested; and that I have delivered the same to the commissioner: and also, my books of account, and all written evidences of my right or title to any property whatsoever: and that I have not, directly or indirectly, at any time, sold, conveyed, or disposed of, for the use of any person, any money or property, debt, right or claim, or intrusted the same to, or with, any person, thereby to defraud my creditors, or any of them, or to secure the same so that I, or my heirs, or any other person, shall receive or expect any profit or advantage therefrom."

Applicant shall
also answer ques-
tions put by com-
missioner or cre-
ditor

Questions and
answers to be
written and sub-
scribed

Sec. 16. That when any person shall apply to the commissioner as aforesaid, he shall, at the time of making oath as aforesaid, answer such questions as shall be put to him by the commissioner, or any creditor, his agent or attorney, relative to his circumstances and the situation of his property, and the causes which occasioned his insolvency; all which questions, together with the answers of the applicant, shall be reduced to writing, and subscribed by him: and such answers shall be considered as made under the oath administered as aforesaid.

Person having
no property may
receive certifi-
cate without giv-
ing bond

Sec. 17. That the commissioner may give such certificates as is hereinafter provided for, to any person who, being in custody of an officer, shall have made application to him in the manner provided in the eighth section of this act, without requiring any bond of such applicant, if the commissioner shall be satisfied that the applicant has no property of any kind, where said applicant shall have complied with the foregoing provisions of this act; or the commissioner, at his discretion, may require the applicant to give bond, with surety, in the manner provided in the thirteenth section, in any sum not exceeding one hundred dollars, conditioned as is provided in said section.

Or commissioner
may require
bond at his dis-
cretion

Sec. 18. That when any person shall have applied for relief under this act, or under the act for the relief of insolvent debtors, passed February twenty third, eighteen hundred and twenty-four, and shall have obtained the certificate of the commissioner, without giving bond and security, and shall have failed to prosecute such application, so as to obtain a certificate from the court, and shall, at any time after such application, again apply for relief under this act; every person so applying, shall give bond with surety, to be approved by the commissioner, in the manner provided in the thirteenth section of this act, before he shall a second time obtain the certificate of the commissioner.

Person who has obtained one certificate without bond, and has failed to prosecute his application, shall give bond before he obtain certificate a second time

Sec. 19. That if any applicant for relief under this act, shall fail to appear in court, and comply with the condition of his bond, the same shall be forfeited, and suit may be brought thereon in the name of the commissioner, for the use of the creditors of the applicant; and the sum collected therefrom, shall be distributed amongst the creditors, as the proceeds of the effects of the applicant are distributed by this act.

Bond how forfeited

Sum recovered thereon to be distributed amongst the creditors

Sec. 20. That when any person shall apply to the commissioner, and shall have complied with the foregoing provisions of this act, the commissioner shall give to the applicant a certificate of his having so complied: and it shall be specified in the certificate, whether such application was made pursuant to the seventh or eighth sections of this act; and also, whether such applicant has given bond, and the amount thereof.

What commissioner shall specify in his certificate

Sec. 21. That the certificate of the commissioner shall protect the person of the applicant from arrest or imprisonment, for any debt or demand in any civil action, at the suit of any person named in his schedule, until the second day of that term of the court of common pleas to which the commissioner shall return copies as hereinafter provided; and if such applicant shall appear in said court, and file his petition as required by this act, said certificate shall protect such applicant from arrest as aforesaid, until said petition shall be finally disposed of by the court: *Provided*, That the court may, for sufficient cause shown, require such applicant, when his petition is continued, to enter into a recognizance to the State of Ohio, for the benefit of his creditors, with surety, to be approved by the court, conditioned that said petitioner shall appear and prosecute his said petition, and abide the order of the court thereon.

Effect of the commissioner's certificate

Provide

Sec. 22. That when such applicant shall produce said certificate to any officer in whose custody he may be, or who shall have civil process against him, the officer shall forthwith discharge such person out of his custody: and the officer shall return, with the process by virtue of which he had such person in custody, a copy of said certificate; and he shall also return on said process, that, in obedience to such certificate, he had discharged the person named therein; and said certificate shall be returned to the person named therein, by the officer.

Applicant to be discharged from custody on producing certificate to the officer

Sec. 23. That the commissioner shall keep a book, in which he shall enter each application made to him under this act, and briefly note all the proceedings had before him, in each case, severally; which record shall be open at all reasonable times to the inspection of any person interested.

Sec. 24. That all the proceedings of the commissioner shall be subject to the supervision of the court by which he was appointed; and for good cause shown, the court may require the commissioner to make an exhibit and statement of any, or all his official proceedings, and to do any other act pertaining to his office that justice may require.

Sec. 25. That the commissioner, after application made to him as aforesaid, shall give fifteen days' notice thereof, by advertisement in some newspaper of general circulation in the county, or by advertisement set up in three public places in the county, one of which shall be on the door of the court-house; in which advertisement shall be specified the time when the copies hereinafter provided for, will be returned to the court.

Sec. 26. That when fifteen days shall intervene between the day of making application to the commissioner, and obtaining his certificate as aforesaid, and the first day of the next term of the court of common pleas, of the proper county, it shall be the duty of the commissioner to return to said court, on or before the first day of the term, the original bond given to him by each applicant, (if any was given); and also, copies of the several schedules and inventories made by such applicant, (if any are made); and also, a copy of the oath made by him, and the examination of the applicant before the commissioner, on questions as before provided; and also, a copy of the record of the proceedings of the commissioner in the case: which bond, and said several copies, shall be filed by the clerk, and shall remain on file in his office, for the benefit of any person interested; and the clerk shall, upon the filing of said bond and copies, enter upon his docket, the name of the applicant as a petitioner for relief under this act.

Sec. 27. That when fifteen days shall not intervene between the day of making application as aforesaid, and the first day of the next term of the court, it shall be the duty of the commissioner to return the bond and copies specified in the foregoing section, to said court, on or before the first day of the second term thereafter.

Sec. 28. That on or before the second day of the term of the court at which copies shall be filed as aforesaid, said applicant shall file his petition in the office of the clerk of said court, setting forth his said application to the commissioner, and praying for the relief contemplated by this act; and the court shall thereupon, on the same day, or on some subsequent day in the same term, while the said petitioner is in court, cause the creditors of said petitioner to be called; and if none shall appear in person or by attorney, to resist said petition, the court may, without

Commissioner to enter each application and his proceedings in a book

Commissioners subject to supervision of the court

What notice of the application commissioners shall give

If fifteen days intervene, commissioner shall return bond, copies of schedules, his proceedings, &c. to the next court

Clerk to file the papers and docket the application

When 15 days do not intervene, papers to be returned at second term

Applicant to file his petition in court

further examination of the petitioner, grant to him a certificate, of his having complied with, and obtained the relief provided by this act, or said petitioner may be further examined by the court: *Provided*, That it shall first be made to appear to the court, that the notice required by this act has been given; and also, that the proceedings before the commissioner have been substantially conformable to this act: *Provided, also*, That the court may, for sufficient cause shown, permit said applicant to file his petition as aforesaid, on any day after the second day of the term, as above provided.

Sec. 29. That if any creditor of the petitioner, or other person interested, shall appear in person, or by attorney, to resist said petition, and shall require a further examination of the petitioner, the said petition shall, if required by either party, be continued until the next term of the court; and such further examination shall be before the commissioner, or before some other person, to be appointed by the court, to take the same.

Sec. 30. That before the petitioner shall be required to submit to a further examination, at least three days' notice in writing shall be given to him, by the creditor, or his attorney, requiring the examination, specifying the time and place of such examination.

Sec. 31. That the further examination of the petitioner shall be in writing; and his answers to such questions as shall be put to him, shall be reduced to writing by himself or his attorney, or by the commissioner, or other person appointed by the court as aforesaid.

Sec. 32. That if the petitioner, while under examination as aforesaid, shall require further time to answer any questions put to him in writing, it shall be the duty of the person before whom such examination is had, to adjourn the same for any time not exceeding four days; and such petitioner shall not be required by his creditors, or any of them, to appear and submit to an examination as aforesaid, more than twice, unless by adjournment as aforesaid.

Sec. 33. That when such examination shall be closed, the petitioner shall sign the same, and make oath or affirmation to the truth thereof, before the commissioner, or before some other person authorized by law to administer oaths; and the said examination shall be returned to the clerk of the court, and by him filed in his office.

Sec. 34. That upon the final hearing of the petition, the several examinations of the petitioner may be read as evidence, by any creditor named in his schedule as a creditor: and the petitioner, and any of his said creditors, may examine witnesses before the court; and they may also offer any other evidence, or depositions taken according to law: and the court on hearing, may grant to the petitioner a certificate as aforesaid, or may dismiss his petition as shall seem just.

Sec. 35. That when the court shall dismiss the petition of

Costs, by whom paid

any person applying for relief under this act, judgment shall be rendered against the petitioner for all the costs that have accrued on behalf of the petitioner, (except such as have been paid by him to the commissioner, at the time of obtaining his certificate,) and also, in resisting the same; and when the court shall grant the petitioner the relief prayed, judgment shall be rendered against the petitioner for the costs before the commissioner, and in the court, on the part of the petitioner, and not before paid; and the creditors resisting such petition and failing, shall pay their own costs: and all such costs shall be taxed as in other cases, and may be collected by execution; or the court may order that their final certificate shall be staid by the clerk, until the petitioner shall pay the costs taxed against him.

Effect of certificate granted by the court

Sec. 36. That the certificate granted by the court to the petitioner as aforesaid, shall protect the person of such petitioner forever after from arrest or imprisonment, for any civil action, debt, or demand, mentioned in the schedule of his debts, made before the commissioner as hereinbefore provided: and if any sheriff, or other officer, shall arrest any person having been so discharged by the court, such officer having knowledge of such discharge, and that the person so arrested has a certificate, so granted to him by the court, or shall refuse to discharge the person so arrested out of his custody, as soon as such certificate shall be produced and shown to him; the officer so offending shall be deemed guilty of a trespass, and shall be liable to be prosecuted in the court of common pleas, in an action at the suit of the party injured: and if judgment shall be rendered against such officer for any sum whatever, in damages, the plaintiff shall recover full costs.

Penalty for concealment of property, or fraudulent disposition thereof

Sec. 37. That if any person who shall apply for the relief contemplated by this act, shall, either before or after such application, conceal any of his property, rights or credits; or shall sell and convey, or in any manner dispose of the same, or any part thereof, in trust for his own use, or for the use of his wife, or child, or children, (except for their immediate support;) or shall in any way dispose of any of his property, with intent to injure or defraud any one or more of his creditors, or to avoid the provisions of this act; the person so offending, shall be indicted, and upon conviction thereof, be fined in any sum not exceeding five hundred dollars, or be imprisoned in the cell or dungeon of the jail of the county, and be fed on bread and water only, not exceeding ten days, or both, at the discretion of the court.

Commissioner to sell property assigned at public vendue after 15 days' notice

Sec. 38. That the commissioner shall sell all the property assigned to him, at public vendue, after giving at least fifteen days' notice, by advertisement, published in some newspaper of general circulation in the county, or by advertisement set up in three public places; which sale shall be made as soon after such assignment as the commissioner shall judge most advantageous for the creditors.

Sec. 39. That said property shall be sold on a credit of not more than nine months, nor less than three months; and the commissioner shall, in all cases of sale on credit, require and take bond or note, with sufficient security: *Provided*, That when one person shall not purchase to the amount of five dollars, the commissioner shall require of such purchaser, payment at the time of sale.

Sec. 40. That the commissioner, after the assignment of the rights and credits of any applicant, shall forthwith collect and reduce such rights and credits to possession, with as little expense as possible; and when in the opinion of the commissioner, any debtor of such applicant is insolvent, or any debt so assigned cannot be collected, the commissioner shall not put such debt in suit at the expense of the estate of the insolvent.

Sec. 41. That as soon as the commissioner shall have sold all the property assigned to him, and collected the proceeds of sale, and also the money due to the applicant, or sooner if the interests of the creditors require it, said commissioner shall give notice to the creditors by advertisement, published for at least three weeks successively, in some newspaper of general circulation in the county, to present their claims for dividend; which claims shall be presented to the commissioner, within sixty days from the day on which such notice shall be first published as aforesaid.

Sec. 42. That the commissioner shall have power to compromise and settle all claims assigned to him, and to adjust, by arbitration or reference, all matters of dispute, wherein he may be interested as commissioner; and if any claim against the applicant shall be presented to him, which he shall not allow, it shall be the duty of the commissioner, forthwith to notify such claimant, his agent or attorney, that his said claim is not allowed, and the commissioner shall defer making any dividend for twenty days after such notice given.

Sec. 43. That at the expiration of the time limited for the presentment of claims as aforesaid, the commissioner shall make an equitable dividend of the money in his hands, (after deducting the fees allowed by this act to be deducted therefrom,) amongst the creditors whose claims shall have been presented and allowed as aforesaid; and so from time to time, to make dividends as money shall come to his hands, first giving notice as aforesaid.

Sec. 44. That if the creditor, whose claim is not allowed by the commissioner, shall not, within the period of twenty days after being notified as above provided, commence suit against the applicant, and prosecute the same to judgment, or otherwise procure his said claim to be allowed by the commissioner, he shall be barred of the next dividend thereafter to be made: *Provided*, That no acknowledgment of the defendant, made after his said application, shall be admitted in evidence, to prove such claim: *Provided, also*, That if any suit

commenced as aforesaid, shall not be finally determined before the expiration of twenty days as aforesaid, the commissioner shall defer making a dividend until such suit shall be finally determined.

Creditor establishing his claim after one dividend made equal in next

Sec. 45. That if any creditor shall fail to present and establish his claim, before a dividend shall have been made as aforesaid, and shall afterwards present and establish his claim as before provided, he shall receive upon such second, or other subsequent dividend, such sum as will make him equal with those creditors who have before received a dividend: *Provided*, That no creditor in whose favor a dividend has been made, shall be bound to refund the same, or any part thereof, in favor of a creditor, whose claim shall have been established subsequent to such dividend made.

Commissioner may administer oaths

Sec. 46. That the commissioner is hereby authorized to administer the oaths by this act required to be administered, to any applicant and petitioner; and also to administer oaths to any other person, in any matter pertaining to the duties of his office.

Creditor not named in schedule, may establish claim and share the dividend

Sec. 47. That if any creditor whose name is not on the schedule, shall present and establish his claim before the commissioner, he shall be entitled to a dividend with the other creditors; in which case, such creditor shall be bound by all the provisions of this act, in the same manner as if he was named in said schedule of creditors, made before the commissioner.

What property applicant may retain

Sec. 48. That the commissioner shall permit the applicant for relief under this act, to retain for his own use, his necessary bed or beds and bedding, and the wearing apparel for himself and family, and such other property as by law is, or may be excepted from execution; which property, except the wearing apparel, shall be inventoried in a separate schedule, which shall be kept by the commissioner; and no copy thereof shall be returned to the court, unless ordered by the court and the commissioner: or the court, as the case may require, shall judge of the sufficiency or excess of the beds and bedding, or wearing apparel, so retained, and may allow the whole, or any part thereof to be retained, as shall be just.

Resignation of commissioner

Sec. 49. That all resignations of the office of commissioner of insolvents, shall be made in writing to the clerks of the court of common pleas of the proper county.

County auditor to officiate as commissioner till one be appointed

Sec. 50. That until a commissioner shall be appointed under this act, and qualified according to law, to act in each county, or in case of the death, absence or inability of said commissioner, it shall be the duty of the county auditor to perform all the duties of commissioner of insolvents, as prescribed by law.

Courts may appoint at any time

Sec. 51. That it shall be lawful for the courts of common pleas in each county, at any time after the passage of this act, to appoint a commissioner of insolvents, who shall give bond

and take the oaths prescribed by law; and the commissioner so appointed, shall enter upon the discharge of the duties of his office, after the taking effect of this act.

Sec. 52. That the commissioner shall have right to demand and receive from each applicant, the following fees, viz: For writing a bond, twenty five cents; for writing the several schedules, inventories and assignments of property, hereinbefore required, ten cents for each hundred words; for any examination of the applicant before the commissioner, at the time of making the application, ten cents for each hundred words; for publishing notice of application in a newspaper, fifty cents; and for each notice of such application to be set up, ten cents; and for the certificate of such application and discharge, twenty-five cents: which fees the commissioner shall have right to demand, before he shall be required to deliver to the applicant such certificate: and at the final hearing and determination of the petition, no judgment shall be rendered by the court for such fees, if the petitioner shall have paid the same.

Commissioner's fees, and how paid

Sec. 53. That for making copies, to be returned to the court, as hereinbefore provided, and for all other writings required to be done by any person under this act, the commissioner, or other person doing the same, shall be entitled to the same sum for each hundred words, that now is, or hereafter may be, allowed by law, to the master commissioner in chancery, for taking depositions; for publishing notice in a newspaper to creditors, to present their claims when the same shall be required by law, twenty-five cents, in addition to the sum actually paid to the printer; and for each notice set up when required, twelve and a half cent; and for all other services performed under this act, the commissioner, or other person performing the same, shall be entitled to a reasonable compensation, to be judged of and allowed by the court: which fees allowed by this section, and also the costs in court, may be retained, and paid by the commissioner out of any money that may come to his hands, out of the effects of the applicant.

Further provided in relation to fees

Sec. 54. That it shall be the duty of every commissioner of insolvent, (and in case of death, then of their executors or administrators,) upon the appointment of a successor, to surrender and deliver over to such successor, all books, records, papers, assets, moneys and other property in his possession, by virtue of his office; and such successor shall receive and receipt for the same, and in all respects proceed as though such effects had originally come into his possession.

Commissioner to deliver books, etc., to his successor

Sec. 55. That the act, entitled "An act for the relief of insolvent debtors," passed February 23d, 1824; and the act, entitled "An act to amend the act, entitled 'An act for the relief of insolvent debtors,'" passed December 29th, 1824; be, and the same are hereby repealed: *Provided*, That all applications and other proceedings commenced under said acts shall be carried on to a final determination, and dividend of the ef-

Acts repealed

PRISON BOUNDS.

fects of the petitioner shall be made according to the provisions of said acts, in the same manner as if the same had not been repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate:

March 12, 1834.

AN ACT regulating prison bounds.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That every person imprisoned for debt, either on mesne process or execution, shall be permitted and allowed the privilege of prison bounds, which are or may be laid off and assigned by metes and bounds, around or adjoining each county jail, by the judges of the court of common pleas: *Provided,* The same does not extend in any direction from said jail, more than four hundred yards; but such prisoner shall, in no instance, pass over or without said limits.

Persons imprisoned for debt shall be allowed, limits

Provide

Prisoner must give bond to creditor with two or more sureties

Sec. 2. That no prisoner shall be entitled to the privilege of prison bounds, until he shall have given bond to the creditors, with two or more sureties resident in the county, such as two of the judges of the court of common pleas, or justices of the peace shall approve of, in double the sum for which such prisoner stands committed, for the prisoner's safe continuing in the custody of the jailer, within the limits of said prison bounds, until legally discharged; which bond shall be lodged with the sheriff, until the creditor or creditors shall demand the same: and when the condition of said bond is broken, the creditor may put said bond in suit, and have judgment entered against the sureties, for the debt, interest and costs, for which the prisoner stands committed.

Sec. 3. That an act allowing and regulating prison bounds, passed December nineteenth, 1799; and an act amendatory thereto, passed December sixth, 1800; are hereby repealed.

Act repealed

This act shall take effect and be in force from and after the first day of June next.

MICHAEL BALDWIN,

Speaker of the House of Representatives.

JOSEPH KERR,

Speaker pro tem. of the Senate:

January 12, 1805.

AN ACT to amend the act, entitled "An act regulating prison bounds."

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the prison bounds in the several counties in this State, shall be extended to the corporation limits of the town in which the prison may be situated: and in all cases where the town as aforesaid has not been incorporated, the bounds shall extend to the limits of the recorded town plat; any thing in the act to which this is an amendment, to the contrary, notwithstanding.

This act to take effect and be in force, from after the passage thereof.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

February 1, 1821.

AN ACT privileging certain persons from arrest and imprisonment.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the members of the Senate and House of Representatives, and the clerks, sergeant-at-arms, door keepers and messengers, of either branch of the General Assembly, shall be privileged from arrest during the sitting of the Legislature, and also during the time necessarily employed in traveling to, and returning from, the place of their meeting; allowing one day for every twenty five miles of the distance, by the road most usually traveled.

Sec. 2. That all proceedings in suits pending, in which any of the persons above mentioned is a party, shall be staid during the time aforesaid: and who-ver shall arrest either of the persons above named, during the time they are entitled to privilege, as above provided, shall forfeit and pay for every such offence, the sum of one hundred dollars; to be recovered, with costs of suit, by action of debt, in the name, and for the use, of the person injured.

Sec. 3. That all persons legally qualified to vote for representatives to the General Assembly, shall be privileged from arrest during the time of their attendance at the election, and while on the way going to, and returning from, such elections.

Sec. 4. That the judges of the supreme court, and the presidents of the courts of common pleas, shall be privileged from arrest while attending courts, and also during the time necessarily employed in going to, holding, and returning from, the said courts, which it is made their duty to attend.

Sec. 5. That the associate judges of the several courts of common pleas within this State, during the sitting of their re-

persons, witnesses, and jurors, respective courts; and all attorneys, counsellors at law, clerks, sheriffs, coroners, constables and criers; and all suitors, witnesses, and jurors, while attending court, and whilst going to, and returning from court, shall be privileged from arrest.

Persons doing militia duty privileged. Sec. 6. That no person shall be arrested, while doing militia duty under the order of his commanding officer, or while going to, or returning from, the place of duty or parade; nor shall any person be arrested in the Senate Chamber or House of Representatives, during their sitting; or [in] any court of justice, during the sitting of the court; or on the first day of the week, commonly called Sunday; or on the fourth day of the month of July, the anniversary of American independence.

Officers and soldiers of the Revolution, and females privileged. Sec. 7. That each and every officer or soldier of the Revolutionary war, and each and every female, shall be privileged from arrest or imprisonment, on any process, mesne or final, for any debt, or claim, or demand, where the cause of the action is founded upon contract.

Privilege not to extend to treason, felony, or breach of the peace, or to prevent service of summons. Sec. 8. That nothing herein contained shall be so construed, as to extend to cases of treason, felony, or breach of the peace, or to privilege any person herein named from being served at any time with a summons or notice to appear; and all arrests, not contrary to the provisions herein contained, made in any place, or on any river or water course, within, or bounding on this State, shall be deemed lawful.

Duty of officer arresting a member or officer of the General Assembly on criminal charge. Sec. 9. That when any of the aforesaid members or officers of the General Assembly shall be arrested during the sitting of the Legislature, upon any charge of treason, felony, or breach of the peace, it shall be the duty of the person issuing the process on which the arrest is made, forthwith to give written notice thereof, to the house of which the person arrested shall be a member or officer.

Privileged person arrested, may be discharged by habeas corpus or on motion. Sec. 10. That if any person shall be arrested contrary to the provisions herein contained, such person may and shall be discharged by a writ of habeas corpus, or in a summary way by motion, before the court from which the process shall have issued, at the costs of the party suing out such process.

Acts repealed. Sec. 11. That the act, entitled "An act securing certain persons from arrest, in certain cases," passed February the fourteenth, one thousand eight hundred and five; and the act, entitled "An act to exempt from imprisonment for debt, soldiers of the Revolutionary war," passed December twenty-ninth, one thousand eight hundred and twenty-four; be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 24, 1831.

AN ACT for the confinement of prisoners under the authority of the United States, in the jails of this State.

WHEREAS, it hath heretofore been recommended by Congress, to the Legislatures of the several States, to pass laws, making it expressly the duty of the keepers of the jails to receive, and safe keep therein, all prisoners committed under the authority of the United States, until they shall be discharged by due course of the laws thereof, under the like penalties, as in the case of prisoners committed under authority of such States respectively; the United States to pay for the use and keeping of such jails, at the rate of fifty cents per month for each prisoner who shall under their authority be committed thereto, during the time such prisoner shall be therein confined: and also, to support such of said prisoners as shall be committed for offences: Therefore,

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the sheriff or keeper of every jail in any county of this State, shall be, and he is hereby authorized and required, to receive all prisoners committed to his custody by the authority of the United States, and to keep them safely until discharged by due course of the laws of the same; and if any sheriff or jailer shall neglect or refuse to perform the services and duties required of him by this act, or shall offend in the premises, he shall be liable to the like penalties, forfeitures and actions, as if such prisoner or prisoners had been committed under the authority of this State: *Provided,* That every prisoner who shall be committed for any offence by the authority of the United States, shall be supported at the expense of the same, during his or her confinement in said jail.

Sec. 2. That the sheriff or keeper of every jail shall, on the first Monday of January, annually, make out, under oath or affirmation, the name or names of all prisoners who, within the year then last past, shall have been committed to his custody, under the authority of the United States, and the time that he, she or they shall have been respectively confined, with an account of the expense thereof, at fifty cents per month, for the use and keeping of such jail, for every person so committed, together with an account of their subsistence, at the rate established by law for State prisoners, unless provided for by the United States, and transmit the same to the auditor of this State, who is hereby authorized and required to draw on the treasurer of this State, who shall pay the said account out of any public money in his hands not otherwise appropriated; and the said auditor is hereby required to exhibit the several accounts by him received as aforesaid, against the United States, on or before the last day of March, annually, for allowance.

ABRAHAM SHEPHERD,
Speaker of the House of Representatives,
THOMAS KIRKER,

December 20, 1808.

Speaker of the Senate

AN ACT to provide for the safe keeping of persons that may be reprieved by the Governor.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever the Governor may deem it expedient and proper to reprieve any person under sentence of death, upon any condition whatsoever; the condition upon which such reprieve is granted, shall be specified in the warrant, and the person accepting of such conditional reprieve, shall subscribe such acceptance upon the warrant containing the conditions of reprieve, in the presence of two witnesses, who shall attest the same: and such witnesses shall go before the clerk of the court where such sentence is recorded, and shall prove the same; and such clerk shall thereupon record the warrant of reprieve, together with the acceptance and proof thereof, in the journals of the court: a transcript of which record shall at all times thereafter be evidence for and against the person accepting such conditional reprieve.

Sec. 2. That if, in any case of reprieve, the Governor shall deem it expedient and proper to confine the person so reprieved in the penitentiary, it being so specified in the warrant, the sheriff, or other officer, having the person so reprieved in his custody, shall convey him or her to the penitentiary, in the same manner as other convicts are directed by law to be conveyed; and the keeper of the penitentiary shall receive such person, together with the warrant of reprieve, and shall proceed with such convict as such warrant may direct: and the expenses of transporting such person to the penitentiary, shall be allowed and paid out of the State treasury, as in other cases.

Sec. 3. That if any person reprieved according to the first section of this act, shall violate the conditions upon which such reprieve is granted, such person shall be proceeded against as in other cases of persons escaping from prison, charged with, or convicted of crimes.

DUNCAN McARTHUR,

Speaker of the House of Representatives.

ABRAHAM SHEPHERD,

Speaker of the Senate.

January 27, 1818.

AN ACT to provide for the election of county recorders, and prescribing their duties.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be elected in each county in this State, on the second Tuesday of October, triennially, a county recorder, who shall hold his office for three years, if he so long behave well, and until his successor shall be chosen and qualified.

Sec. 2. That the recorder shall keep his office at the seat of justice of his county; and before he enters on the duties thereof, To keep his office at the seat of justice he shall give bond, with two or more securities, to the acceptance of the court of common pleas of his county, or two of the judges of said court, in the penal sum of two thousand dollars, payable to the treasurer of the county, and conditioned for the faithful discharge of his duties as recorder; and shall take and subscribe the following oath, to be indorsed on said bond, Recorder's oath to wit: "I, A B, do swear [or affirm, as the case may be,] that I will faithfully and impartially discharge the duties of recorder for the county of _____, according to the best of my abilities and understanding;" and the bond so indorsed shall be filed in the office of the county auditor, and by him carefully Where bond shall be filed preserved: *Provided*, That in all cases where the same person shall be elected to the office of county recorder and county auditor, the recorder shall file his official bond with the county treasurer.

Sec. 3. That in case the office of recorder in any county shall become vacant by reason of death, resignation or removal, Commissioners to fill vacancies the commissioners of the county shall appoint a recorder, who shall hold his office until the next October election.

Sec. 4. That the recorder of each county shall record in a fair and legible hand writing, in books to be by him provided To record deeds &c. according to priority of presentation for that purpose, at the expense of the county, all deeds, mortgages, and other instruments of writing, required by law to be recorded, and which shall be presented to him for that purpose; and the same shall be recorded in regular succession, according to the priority of their presentation: and if a mortgage, the precise time of the day on which the same was presented, shall also be recorded.

Sec. 5. That upon the presentation of any deed, or other instrument of writing, for record, the recorder shall indorse thereon the date of its presentation; and if required, shall give to the person presenting the same a receipt therefor, without fee or reward, naming in such receipt the parties to the deed, or other instrument of writing, the date thereof, and giving a brief description of the premises: and when such deed, or other instrument of writing, shall be recorded, the recorder shall indorse thereon the time when recorded, and the number or letter, and page or pages of the book, in which the same is recorded. His duty on receiving deeds &c. for record

Sec. 6. That the recorder shall keep a seal of office, to be To keep a seal, and make copies of records when required procured at the expense of the county; and shall make out for any person demanding the same, a fair and accurate copy of any record in his office, and certify the same, and shall affix his signature and official seal to such certificate.

Sec. 7. That each recorder, on going out of office, shall To deliver seal, books, &c. to his successor deliver to his successor the seal of office, all the books, records, and other instruments of writing, belonging to said office, and shall take his successor's receipt therefor; and in case of the

death of the recorder, his personal representatives shall deliver over the seal, books, records and papers, as aforesaid.

For neglect or misconduct in office, shall be liable to a suit on his bond

Sec. 8. That if any recorder shall refuse to receive any deed, or other instrument of writing, presented to him for record, (the legal fee for recording the same being paid or tendered;) or shall refuse to give a receipt therefor, when required; or shall, without good excuse, neglect to record any deed, or other instrument of writing, within twenty days after the same is received for record; or shall demand and receive any greater fee for his services than is allowed by law; or shall knowingly indorse on any deed, or other instrument of writing, a different date from that on which the same was presented for record, or a different date from that on which it was recorded; or shall refuse to make out and certify a copy of any record in his office, when demanded, (his legal fee therefor being paid or tendered;) or shall purposely destroy, deface or injure any book, record or seal, belonging to his office, or any deed, or other instrument of writing, deposited therein for record; or shall negligently suffer the same to be destroyed, defaced or injured: he shall be liable to a suit on his bond, at the instance and for the use of the party injured by such improper conduct; and may also be indicted therefor: and if convicted on such indictment, may be fined in any sum not exceeding five hundred dollars, at the discretion of the court of common pleas of the county, in which such indictment shall be tried; and shall be forthwith removed from office by said court, and be ineligible as a candidate for re-election to the same office, for the three years next succeeding.

May also be indicted, fined, removed from office, &c.

Act repealed

Sec. 9. That the act to provide for the election of county recorder, passed February 11th, 1829, be, and the same is hereby repealed: *Provided*, That the recorders elected under the provisions of said act, and those heretofore appointed by the associate judges of the proper county, and whose term of service has not expired, shall continue to hold their respective offices for the term for which they were elected or appointed, in the same manner as if the acts under which they were elected or appointed, were not repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

February 25, 1831.

AN ACT to provide for the proof, acknowledgment and recording of Deeds, and other instruments of writing.

Deeds how executed & acknowledged

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That when any man, or unmarried woman, above the age of twenty-one years, shall execute, within this State, any deed,

mortgage, or other instrument of writing, by which any land, tenement or hereditament, shall be conveyed, or otherwise affected or incumbered in law, such deed, mortgage, or other instrument of writing, shall be signed and sealed by the grantor or grantors, maker or makers, or such signing and sealing shall be acknowledged by such grantor or maker in the presence of two witnesses, who shall attest such signing and sealing, and subscribe their names to such attestation; and such signing and sealing shall also be acknowledged by such grantor or grantors, maker or makers, before a judge of the supreme court or of the court of common pleas, a justice of the peace, notary public, mayor, or other presiding officer of an incorporated town or city, who shall certify such acknowledgment on the same sheet on which such deed, mortgage, or other instrument of writing may be printed or written; and shall also certify that he is satisfied, from personal knowledge, or from the testimony of some witness, (naming him) that the person or persons making such acknowledgment is, or are, the person or persons whom they represent themselves to be; and shall subscribe his name to such certificate.

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Sec. 2. That when a husband and wife, she being eighteen years of age or upwards, shall execute, within this State, any deed, mortgage, or other instrument of writing, for the conveyance or incumbrance of the estate of the wife, or her right of dower in any land, tenement or hereditament, situate within this State; such deed, mortgage, or other instrument of writing, shall be signed and sealed by the husband and wife; and such signing and sealing shall be attested and acknowledged, in the manner prescribed in the first section of this act: and in addition thereto, the officer before whom such acknowledgment shall be made, shall examine the wife, separate and apart from her husband, and shall read, or otherwise make known to her, the contents of such deed, mortgage, or other instrument of writing: and if, upon such separate examination, she shall declare that she did voluntarily sign, seal, and acknowledge the same, and that she is still satisfied therewith, such officer shall certify such examination and declaration of the wife, together with the acknowledgment, as aforesaid, on such deed, mortgage, or other instrument of writing, and subscribe his name thereto.

Deeds by hus-
band and wife,
how executed
and acknowledged

Separate exami-
nation of the wife

Sec. 3. That all powers of attorney authorizing the mortgaging, or sale and conveyance, of any lands, tenements or hereditaments, in this State, shall be signed, sealed, attested, acknowledged and certified, in the manner specified in the preceding sections of this act, in the case of deeds, mortgages and other instruments of writing: and when the estate of the wife is to be conveyed by attorney, or her right of dower in any lands, tenements or hereditaments, relinquished, she shall join her husband in the execution of the power of attorney for that purpose; and such power shall be executed, attested, and acknowledged, in all respects, in conformity with the provisions of the second section of this act.

Powers of attor-
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EXECUTION, &c. OF DEEDS.

For neglect or misconduct in office, shall be liable to a suit on his bond

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Sec. 4. That the conveyance made by virtue of any power of attorney, executed by the husband and wife as aforesaid, shall contain the name of the wife, and shall divest her of her estate in the lands, tenements and hereditaments so conveyed, or her right of dower therein, as fully as if such conveyance were executed by her in person: Provided, That at any time previous to the sale and conveyance of any lands, tenements or hereditaments, so far as relates to her interest in such lands, tenements or hereditaments; but such revocation shall be inoperative, until recorded in the county wherein such lands, tenements, or hereditaments are situated.

Sec. 5. That all deeds, mortgages, powers of attorney, and other instruments of writing, for the conveyance or incumbrance of any lands, tenements or hereditaments, situate within this State, Territory or country, or proved in any other State, Territory or country, in conformity with the laws of such State, Territory or country, or in conformity with the laws of this State, shall be as valid as if executed within this State, in conformity with the foregoing provisions of this act.

Sec. 6. That all powers of attorney authorizing the execution of any deed, mortgage, or other instrument of writing, for the sale, conveyance or incumbrance, of any lands, tenements or hereditaments, in this State, shall be recorded in the office of the recorder of the county in which such lands, tenements or hereditaments are situated, previous to such sale, or the execution of such deed, mortgage, or other instrument of writing, by virtue of such power of attorney.

Sec. 7. That all mortgages executed agreeably to the provisions of this act, shall be recorded in the office of the recorder of the county in which such mortgaged premises are situated, and shall take effect from the time when the same are recorded; and if two or more mortgages are presented for record on the same day, they shall take effect from the order of presentation for record: the first presented, shall be the first recorded; and the first recorded, shall have preference.

Sec. 8. That all other deeds and instruments of writing, for the conveyance or incumbrance of any lands, tenements or hereditaments, executed agreeably to the foregoing provisions, shall be so recorded within six months from the date thereof; and if such deed or other instrument of writing, shall not be so recorded within the time herein prescribed, the same shall be deemed fraudulent, so far as relates to any subsequent bona fide purchaser, having, at the time of making such purchase, no knowledge of the existence of such former deed, or other instrument of writing: Provided, That such deed or other instrument of writing, may be recorded after the expiration of the time herein prescribed, and, from the date of such record, shall be notice to any subsequent purchaser.

Sec. 9. That nothing in this act contained shall be construed

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Powers of attorney to be recorded in the office of the recorder of the county in which such lands, tenements or hereditaments are situated, previous to such sale, or the execution of such deed, mortgage, or other instrument of writing, by virtue of such power of attorney.

Mortgages to take effect from the time of recording

Other deeds to be recorded in six months

If not recorded in time, how considered

Proviso

to affect the validity of any lease of school or ministerial lands, Certain temporary leases not affected by this act for any term not exceeding ten years; or of any other lands, for any term not exceeding three years; or to require such lease to be attested, acknowledged, or recorded.

Sec. 10. That all copies from the records of deeds, mortgages, Copies of records evidence or other instruments of writing, duly certified by the county recorder, with his official seal affixed thereto, shall be received in all courts and places within this State, as prima facie evidence of the existence of such deeds, mortgages and other instruments of writing, and as conclusive evidence of the existence of such records.

Sec. 11. That all deeds, mortgages, and other instruments of writing, heretofore executed, in conformity with the provisions of the laws in force at the time of their execution, shall be as valid as if executed according to the provisions of this act. Deeds heretofore executed according to law, valid

Sec. 12. That the "Act to provide for the proof and acknowledgment of deeds, and other instruments of writing," passed February twenty-fourth, eighteen hundred and twenty; the act supplementary thereto, passed February fourth, eighteen hundred and twenty-eight; and the "Act providing for the recording of deeds, mortgages and other instruments of writing," passed February the eighth, eighteen hundred and ten; be, and the same are hereby repealed. Acts repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 22, 1831.

AN ACT concerning seals to be affixed to instruments of writing.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases where a seal is or may be required by law to be affixed to any instrument of writing, and the seal so required is not specific, a seal either of wax, wafer or of ink, commonly called a scrawl seal, shall be alike valid, and deemed sufficient.

Sec. 2. That the act defining seals to be affixed to instruments of writing, passed February eleventh, eighteen hundred and five, be, and the same is hereby repealed.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 3, 1831.

Sec. 4. That the conveyance made by virtue of any power of attorney, executed by the husband and wife as aforesaid, shall contain the name of the wife, and shall divest her of her estate in the lands, tenements and hereditaments so conveyed, or her right of dower therein, as fully as if such conveyance were executed by her in person: *Provided*, That at any time previous to the sale and conveyance of any lands, tenements or hereditaments, so authorized to be sold and conveyed, the wife may revoke such power of attorney, so far as relates to her interest in such lands, tenements or hereditaments; but such revocation shall be inoperative, until recorded in the county wherein such lands, tenements, or hereditaments are situated.

Sec. 5. That all deeds, mortgages, powers of attorney, and other instruments of writing, for the conveyance or incumbrance of any lands, tenements or hereditaments, situate within this State, executed and acknowledged, or proved in any other State, Territory or country, in conformity with the laws of such State, Territory or country, or in conformity with the laws of this State, shall be as valid as if executed within this State, in conformity with the foregoing provisions of this act.

Sec. 6. That all powers of attorney authorizing the execution of any deed, mortgage, or other instrument of writing, for the sale, conveyance or incumbrance, of any lands, tenements or hereditaments, in this State, shall be recorded in the office of the recorder of the county in which such lands, tenements or hereditaments are situated, previous to such sale, or the execution of such deed, mortgage, or other instrument of writing, by virtue of such power of attorney.

Sec. 7. That all mortgages executed agreeably to the provisions of this act, shall be recorded in the office of the recorder of the county in which such mortgaged premises are situated, and shall take effect from the time when the same are recorded; and if two or more mortgages are presented for record on the same day, they shall take effect from the order of presentation for record: the first presented, shall be the first recorded; and the first recorded, shall have preference.

Sec. 8. That all other deeds and instruments of writing, for the conveyance or incumbrance of any lands, tenements or hereditaments, executed agreeably to the foregoing provisions, shall be so recorded within six months from the date thereof; and if such deed or other instrument of writing, shall not be so recorded within the time herein prescribed, the same shall be deemed fraudulent, so far as relates to any subsequent bona fide purchaser, having, at the time of making such purchase, no knowledge of the existence of such former deed, or other instrument of writing: *Provided*, That such deed or other instrument of writing, may be recorded after the expiration of the time herein prescribed, and, from the date of such record, shall be notice to any subsequent purchaser.

Sec. 9. That nothing in this act contained shall be construed

to affect the validity of any lease of school or ministerial lands, ^{Certain temporary leases not affected by this act} for any term not exceeding ten years; or of any other lands, for any term not exceeding three years; or to require such lease to be attested, acknowledged, or recorded.

Sec. 10. That all copies from the records of deeds, mortgages, ^{Copies of records evidence} or other instruments of writing, duly certified by the county recorder, with his official seal affixed thereto, shall be received in all courts and places within this State, as prima facie evidence of the existence of such deeds, mortgages and other instruments of writing, and as conclusive evidence of the existence of such records.

Sec. 11. That all deeds, mortgages, and other instruments of writing, heretofore executed, in conformity with the provisions of the laws in force at the time of their execution, shall ^{Deeds heretofore executed according to law, valid} be as valid as if executed according to the provisions of this act.

Sec. 12. That the "Act to provide for the proof and acknowledgment of deeds, and other instruments of writing," passed February twenty-fourth, eighteen hundred and twenty; the act supplementary thereto, passed February fourth, eighteen hundred and twenty-eight; and the "Act providing for the recording of deeds, mortgages and other instruments of writing," passed February the eighth, eighteen hundred and ten; be, and the same are hereby repealed. ^{Acts repealed}

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 22, 1831.

AN ACT concerning seals to be affixed to instruments of writing.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That in all cases where a seal is or may be required by law to be affixed to any instrument of writing, and the seal so required is not specific, a seal either of wax, wafer or of ink, commonly called a scrawl seal, shall be alike valid, and deemed sufficient.

Sec. 2. That the act defining seals to be affixed to instruments of writing, passed February eleventh, eighteen hundred and five, be, and the same is hereby repealed.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 3, 1831.

AN ACT to provide for the recording of town plats,

Towns to be surveyed, and plat made by county surveyor, setting forth streets, alleys, etc.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That whenever any person wishes to lay out a town within this State, they shall cause the same to be surveyed, and a plat or map thereof made by the county surveyor, if any there be, of the county in which said town is situated; but if there be no county surveyor in the county, then, and in that case, by the county surveyor of an adjacent county: which plat or map shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all in and out-lots, or fractional lots, within, adjoining or adjacent to said town, describing the same by courses, boundaries and extent.

Lots to be numbered progressively, and dimensions to be stated on plat

Sec. 2. That all the in-lots intended for sale, shall be numbered in progressive numbers, or by the squares in which they are situated, and their precise length and width shall be stated on said plat or map: and all out-lots which shall not exceed ten acres in size, shall in like manner be surveyed and numbered, and their precise length and width stated on the plat or map, together with any streets, alleys or roads which shall divide or border on the same.

Stone to be planted at corner

Sec. 3. That the proprietor of the town, his, her or their agent, shall, at the time of surveying and laying out a town, plant and fix at a corner of the public ground, or at the corner of a public lot, if any there be, and if there be none, then at the corner of some one of the in-lots in the town, and at the corner of each out-lot, a good and sufficient stone, of such size and dimensions, and in such manner, as the surveyor shall direct, for a corner from which to make future surveys; and the point or points where the same may be found, shall be designated on the plat or map.

Plat to be certified by surveyor, acknowledged by proprietor, and recorded

Sec. 4. That the plat or map, after having been completed, shall be certified by the surveyor, and acknowledged by the owner or owners of the town, if resident of this State; or if said owner or owners shall not reside in this State, then, and in that case, by his, her or their agent, legally authorized so to do, before some officer authorized to acknowledge deeds, and recorded in the recorder's office of the county in which said town is situated.

Plats of towns in unorganized counties, where recorded

Sec. 5. That if the county in which said town is situated shall not be organized, then, and in that case, the plat or map shall be recorded in the recorder's office of that county to which the county, in which said town is situated, shall at the time be attached for judicial purposes.

Subdivision of lots and additions to towns, to be platted, lots numbered and described, and

Sec. 6. That all proprietors of lots or grounds in any city or town corporate in this State, who have subdivided or laid out, or who shall hereafter subdivide or lay out the same in lots for sale, shall cause accurate and true maps or plats thereof to be recorded in the office of the recorder of the county in which such town or city may be situated; which maps or plats

so to be recorded, shall set forth and describe with certainty, all grounds laid out or granted for streets, alleys, ways, commons, or other public uses; and all the lots sold or intended for sale by progressive numbers, or by the squares in which they are situated, and the precise length and width of each and every lot; and shall be acknowledged before a justice of the peace, or some other officer authorized by law to take and certify acknowledgments of deeds, and shall be certified by the officer taking the same, in the manner prescribed for the proof and acknowledgment of deeds: and such map or plat so recorded, shall be deemed a sufficient conveyance to vest the fee of the parcel or parcels of land therein set forth and described, or intended to be for streets, alleys, ways, commons or other public uses, in such city or town corporate, to be held in the corporate name thereof, in trust to, and for the uses and purposes so set forth and expressed or intended.

plat acknowledged and recorded in like manner

Sec. 7. That if any proprietor or proprietors, or his or their agent or attorney, shall sell any lot or lots, in any plan of subdivision of, or addition to the lots originally laid out in any town or city in this State, before a map or plat of such subdivision or addition shall have been recorded, as herein required; such proprietors, agent or attorney, shall forfeit and pay to the State of Ohio, for the use of such town or city, the sum of fifty dollars for each and every lot so sold, to be recovered in an action of debt before any court having cognizance of the same, together with costs of suit, on the complaint of any citizen.

Penalty for selling lots in subdivision or addition to town, before the plat is recorded

Sec. 8. That the plat or map, when recorded, as required by this act, shall be deemed and considered in law, a sufficient conveyance to vest the fee simple of all such parcel or parcels of land as are therein expressed, named or intended for public use, in the county in which the town is situated, for the uses and purposes therein named, expressed or intended, and for no other use or purpose whatever.

Plat, when recorded, to operate as a conveyance of the public ground

Sec. 9. That if any person shall lay out any town, or addition to any town or city, and neglect to plant the corner stones therein, or cause the same to be surveyed and platted, in any other manner than that which is prescribed in this act; every person so offending shall forfeit and pay the sum of one hundred dollars, for the use of the county, to be recovered in an action of debt, in the name of the county treasurer.

Penalty for laying out town and neglecting to plant corners, etc.

Sec. 10. That if any person shall dispose of, offer for sale, or lease for any time exceeding five years, any out or in-lot in any town, or addition to any town or city, or any part thereof, which shall hereafter be laid out, until all the foregoing requisitions of this act shall have been complied with; every person so offending shall forfeit and pay, for the use of the county, the sum of twenty-five dollars, for each and every lot or part of lot so sold, disposed of, leased or offered for sale, for the use of the county, to be recovered in an action of debt, in the name of the treasurer of the county.

Penalty for selling or leasing lot before complying with provisions of this act

Sec. 11. That the directors appointed by the court of common pleas, to lay out a town where a seat of justice has been located on lands on which no town is situated, shall be governed in all respects, and be liable to all the penalties of this act.

Directors laying out town for seat of justice, governed by this act

Act repealed

Sec. 12. That the "Act providing for the recording of town plats," passed February 14th, 1805, be, and the same is hereby repealed: *Provided*, That all penalties incurred under said act, may be sued for and recovered, and shall be appropriated as provided in said act, in the same manner as if said act had not been repealed.

This act to take effect from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 3, 1831.

AN ACT to provide for the vacating of town plats, and for other purposes.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the courts of common pleas are hereby authorized and empowered, on application for that purpose, made by the proprietor or proprietors, his, her or their heirs, assignee or assignees, of any town, or of any addition of said town, situated within their proper county, to alter or vacate said town or its addition, or any part of either of them.

Court of com. pleas on application to vacate

Proprietors to give notice

Sec. 2. That if the proprietor or proprietors of said town, or of the addition thereof, his, her or their heirs, assignee or assignees, shall be desirous of altering or vacating the same, or any part thereof, such proprietor or proprietors, his, her or their heirs, assignee or assignees, shall give notice in writing of such intended application, in at least two places in the county wherein such town may be situated, one to be set up in the most public place in said town, and one on the court house door of said county; and shall also insert a copy of said notice in some newspaper printed in said county; and if no newspaper is printed in said county, then in some one having the most general circulation therein, at least sixty days prior to the sitting of said court, to which he, she or they intend to make such application; and which notices shall set forth and describe the part or parts intended to be vacated or altered, and the right by which the party, making such application, claims.

On proof of notice and consent of lot owners, the court to make an order

Sec. 3. That if such applicant shall produce to said court satisfactory evidence that the notice, required by the preceding section, has been given, and that all persons owning any lot, or part thereof, in said town, or the addition to said town, as the case may be, their authorized agent or attorney, have agreed that the whole or a part of said town, or its addition, shall be altered or vacated, the court shall, in their discretion, proceed

To alter or vacate said town, or its addition, or any part of either: and the proceedings under this act shall be recorded by the clerk, with the records of said court, a copy whereof shall be made out and certified under the seal of said court, by the clerk thereof, and be by the party applying for such vacation or alteration of said town, or its addition, within thirty days from the rising of said court, deposited with the recorder of deeds for said county, who shall record the same: *Proceedings to be recorded by the clerk, &c.* *Provided*, That the vacating of any town plat, or its addition, or any part thereof, shall not vacate any part of a State or county road.

Sec. 4. That at the term to which the notice shall be given, as is provided for in the second section of this act, or at any subsequent term, during the pendency of said application, any person feeling interested in said proceedings, may, upon motion for that purpose, be made party defendant to said application; and in which case, upon final hearing, the party succeeding shall have judgment against the other for the costs of said proceedings, and for which execution may issue as in other cases. *Pleading before court*

Sec. 5. That the clerk of the court shall be entitled to the sum of fifty cents for the recording of any plat required to be recorded under the provisions of this act; and for such other services, the same fees as are allowed for similar services by the act, entitled "An act to regulate the fees of civil officers in civil and criminal cases," passed February nineteenth, eighteen hundred and twenty-four. *Clerk's fees*

Sec. 6. That on application made, and notice given according to the provisions of this act, the court of common pleas shall have power to change any commons that may be included in any town plat within their proper county into streets, and to cause such change to be recorded, as is provided by the third section of this act. *Further power of court*

Sec. 7. That the act, entitled "An act for the vacating of town plats, and for other purposes," passed December twenty-first, eighteen hundred and eleven, be, and the same is hereby repealed. *Repealing clause*

EDWARD KING,
Speaker of the House of Representatives.
SAMUEL WHEELER,
Speaker of the Senate.

January 29, 1828.

AN ACT defining the mode of laying out and establishing State roads, and changing their direction in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all State roads to be hereafter laid out within this State, shall be viewed, surveyed, established, and returns made thereof, agreeably to the provisions of this act; and shall be established, and complete returns made of the same, within one *State roads, how established*

year from the passage of the act, by which said road or roads may be granted or authorized to be laid out respectively.

Road commissioners to employ surveyor, chain carriers, &c.

Sec. 2. That whenever the General Assembly shall by law authorize any road or roads to be laid out and established within this State, and shall appoint commissioners to lay out and establish the same; said commissioner shall employ a skillful surveyor, chain carriers, a marker and other assistants, if necessary; all of whom shall meet at the place where the road is to commence, which they have been appointed to lay out and establish, and proceed to the discharge of the duties of their appointments, respectively, at such time as shall be agreed on by the said commissioners, subject to the restrictions prescribed in the first section of this act: *Provided*, That each commissioner, surveyor and chain carrier shall, before entering on the duties of his appointment, take an oath or affirmation to discharge his duty faithfully, and according to law.

To be sworn

Road to be laid on most direct rout

To be sixty feet wide

Sec. 3. That each State road shall be laid out from the place of beginning to the place of termination, on the most direct rout that suitable ground can be found whereon to establish the same, always having regard to the intermediate points, if any, in such road; and all State roads that shall be hereafter established agreeably to the provisions of this act, shall be opened and considered public highways, sixty feet wide.

Directions for laying out, surveying and marking road, &c.

Sec. 4. That the commissioners appointed to lay out and establish any State road, shall cause the same to be correctly surveyed and marked, throughout the whole distance of the same, and note the courses and distances thereof; and at the end of each mile, shall mark the number thereof on a tree, or on a monument erected by them for that purpose: and the commissioners and surveyor of each road shall make a certified return of the survey and plat of the whole length of said road, specifying in said return the distance the same may have been laid out in each county; one complete copy of which return shall be signed by a majority of the commissioners, and the surveyor, and immediately deposited in the commissioners' office in each county in which any part of said road shall be laid out; and from thenceforth said road shall be considered a public highway: and the county commissioners shall cause said returns to be recorded and placed on file in their office.

Commissioners may authorize change of State roads in their counties

Sec. 5. That it shall be lawful for the board of commissioners of any county in this State, to authorize a change or alteration in the direction or rout of any State road, or part of the same, that has been, or may hereafter be, located and established within their respective counties: *Provided*, That when any petition for such change or alteration shall have been read before said commissioners, and filed in their office, such petitioners shall, at least thirty days before the next stated meeting of such commissioners, cause notice to be given of the filing of said petition, and of the substance thereof, by publication in some newspaper of general circulation in said county, and also,

by setting up at least five copies of such notice, in the township or townships in which such change or alteration is proposed to be made.

Sec. 6. That the application for such change or alteration shall be by petition to the county commissioners, signed by at least twenty freeholders, residing in the county where such change or alteration is proposed to be made; which petition shall particularly specify the change or alteration intended to be made: and such petition, (lawful notice having been given,) may be filed with said commissioners, at any one of the regular sessions of their board, as required by law: and at the time of presenting said petition, the signers, or some one thereof, shall enter into bond, with two or more good and sufficient freeholders as securities, to be approved of by said commissioners, made payable to the State of Ohio, for the use of the county, conditioned for the payment of all expenses accruing in any manner under this act, in case that upon final hearing, the change or alteration prayed for should not be granted; and also, that in case the change or alteration, as prayed for, should, upon final hearing, be granted, the petitioners shall, within one year thereafter, cause the part or parts so adopted in place of the former rout, to be made in all respects as good as the former rout was at the time of such change: and upon receiving and filing such petition and bond, the commissioners shall appoint some particular day of their next session, on which they will attend for the purpose of hearing remonstrances, or granting an order for a review, agreeably to the prayer of said petitioners.

Application for
change to be by
petition

One or more of
the signers to
give bond

Condition of the
bond

Sec. 7. That at the time fixed upon, as provided for in the preceding section, it shall be lawful for any person or persons having objections to the change or alteration of such State road, to present his, her, or their remonstrance, in writing, against the same, and also to attend in person, with his, her, or their testimony, which the commissioners are authorized to hear and examine; and thereupon the said commissioners shall, as they in their discretion may judge for the public good, grant or refuse a review of so much of said road as is prayed to be altered, and described in said petition: and in case the said commissioners shall decide that a review shall be had, they shall appoint three disinterested freeholders, residing in the county, but not in any township in which such change or alteration is proposed to be made: and it shall be the duty of the said viewers to employ a skillful surveyor, chain carriers and markers, who, with the viewers and commissioners, shall, in the discharge of their several duties, be governed by the provisions of the act for opening and regulating roads and highways.

Remonstrances
may be presented

Commissioners
may hear testimony
and grant
or refuse a review

Sec. 8. That if, in the opinion of said viewers, a change in the direction of said road may be advantageously made; which opinion shall be reported in writing to the commissioners, who may thereupon, in their discretion, authorize and di-

Proceedings
when reviewers
report in favor
of a change

rect such change to be made; and it is hereby made their duty, if they authorize and direct such change, to cause the plat and survey of such variation from the original rout, to be recorded: and in case any person or persons shall consider him, her, or themselves aggrieved by the new location of such road, such claim or claims for damages may be presented, and shall be assessed and paid in the manner prescribed by the fifth section of the act for opening and regulating roads and highways.

No change to be made across a county line with out concurrence of commissioners of both counties.
 Sec. 9. That no change shall be made in the direction of a State road where it crosses the line between two counties, unless by mutual agreement in the report of the viewers appointed by the commissioners of each county, and by the concurrence of the commissioners of the two counties interested; in which last case, the plat and survey of the variation from the original rout shall be recorded in both counties.

When change is made, old rout may be vacated
 Sec. 10. That when a change shall be made in any State road, agreeably to the provisions of this act, so much of the old road as lies between the points of intersection of the new and old roads, may be, by the commissioners of the county in which such change is made, declared vacated, whenever in their opinion it may be expedient, after the end of one year from the acceptance of, and agreement to, the report of the viewers, as herein before provided.

Appeal allowed from the decision of the commissioners
 Sec. 11. That on the report of the viewers, as specified in the eighth section of this act, and the final decision of the commissioners thereon, any person or persons aggrieved by such decision, shall have a right to appeal to the court of common pleas of the proper county, in the manner pointed out in the "Act for opening and regulating roads and highways."

If petitioners do not make new roads as good as the old, in one year, suit shall be instituted on the bond
 Sec. 12. That if, at the end of one year from the final decision of the commissioners in favor of a change of the location of any road, or part thereof, in their county, and if an appeal shall have been taken from such final decision, and on trial such decision confirmed; then, if at the end of one year from the judgment on such appeal, the petitioners aforesaid shall not have caused such new road to be opened, and made as good in every respect for the public use and benefit as the old road was at the time of making such change or alteration, the commissioners shall institute a suit upon the bond by them taken, as provided for in the sixth section of this act; and the sum for which the court is hereby authorized to render judgment, shall be such amount as, from proof, may be adjudged necessary to make said road, so adopted in place of the old, as good as such old road was at the time of the alteration aforesaid; which amount so recovered, shall be expended by said commissioners in constructing and improving such new road.

What amount recovered, & how applied
 Sec. 13. That all persons heretofore appointed commissioners to lay out and establish any State road, or receive subscriptions or donations for opening and improving the same, shall, within one year from and after the passage of this act, make

Road commissioners heretofore appointed, to account with

returns of all such subscriptions or donations, or the unexpended balances thereof, to the supervisors of highways through whose districts such road may pass, and their offices as commissioners shall from thenceforth cease: and the supervisors, or either of them, to whom such returns are herein required to be made, may prosecute any such road commissioner who shall refuse to make a settlement for all such subscriptions or donations, or unexpended balances thereof, before any court having cognizance of the same, or may prosecute, or continue prosecutions already commenced, against any person or persons for such subscription, donation, or unexpended balance thereof; which amount so received or recovered, said supervisor or supervisors shall cause to be expended on the road for which such donation was originally made.

supervisors in one year, and their offices to cease

May be sued for unexpended balances

Sec. 14. That any person who may be hereafter appointed a commissioner to lay out and establish any State road, and receive subscriptions and donations thereon, may continue to perform his duties as such for two years, and no longer, unless otherwise specially provided for by law; and when such two years shall have expired, such commissioner or commissioners shall account with the supervisors of highways, and shall, in all other respects, be governed by the preceding section of this act.

Commissioners hereafter appointed to continue two years, and then account

Sec. 15. That each road commissioner and surveyor employed to lay out and establish any road, under the provisions of this act, shall receive one dollar and fifty cents, and all other persons so employed, seventy-five cents each, per day, for their services as aforesaid; the amount of which expenses shall be paid out of the county treasuries of the counties wherein such road may be established, in proportion to the distance the same may be established in each county respectively, on the order of the county auditor: and the road commissioners aforesaid, shall in all cases certify to the commissioners of each county aforesaid, the whole length of time each person may have been employed in laying out and establishing such State road; also, the full amount of compensation due to each person for the services aforesaid.

Compensation for services under this act, and how paid

Sec. 16. That each commissioner appointed to lay out a State road under the provisions of this act, is hereby authorized to receive subscriptions or donations for the opening or improving said road, or any part thereof; which donations or subscriptions they shall deposit with the auditor of the county in which the road for which such donations or subscriptions were made shall be situated, to be appropriated for improving and opening said road, under the direction of the supervisor of the proper district: and the supervisor aforesaid, shall be authorized to collect the amount of such subscriptions by action of debt, as in other cases.

Commissioners may receive donations, &c.

Sec. 17. That if any person or persons shall consider him, her or themselves aggrieved by the laying out and establish-

Applications for damages, how made,

ing, vacating or altering, or application for damages, on any State road through his, her or their land, such person or persons may prefer his, her or their petitions or complaints in writing to the county commissioners: and in all such cases the said commissioners shall be governed by the provisions of the act, entitled "An act for opening and regulating roads and highways," in similar cases.

Acts repealed

Sec. 18. That the act, entitled "An act defining the mode of laying out and establishing State roads," passed February twenty-fifth, eighteen hundred and twenty-four; the act, entitled "An act to amend the act, entitled 'An act for opening and regulating roads and highways,'" passed February seventh, eighteen hundred and twenty-five; the act entitled "An act to amend the act, entitled 'An act for opening and regulating roads and highways,'" passed January thirty-first, eighteen hundred and twenty-six; the act, entitled "An act to amend the act for opening and regulating roads and highways," passed February eighth, eighteen hundred and twenty-six; the act, entitled "An act to amend the act, entitled 'An act defining the mode of laying out and establishing State roads,'" passed January twenty-ninth, eighteen hundred and twenty-seven; the act, entitled "An act authorizing county commissioners to grant reviews, and change the direction of State roads within their respective counties, in certain cases," passed February second, eighteen hundred and twenty nine; and the act, entitled "An act to repeal part of the fourth section of an act, entitled 'An act defining the mode of laying out and establishing State roads,'" be, and the same are hereby repealed: *Provided*, That no acts heretofore done, or contracts entered into, or liabilities incurred, under the authority of any of the provisions of the acts herein before enumerated, shall be annulled, or in any wise affected, by the provisions of this act.

Repealed

This act shall take effect and be in force from and after the first day of October next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 14, 1831.

AN ACT for opening and regulating roads and highways.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That all roads and highways which have been, or may hereafter be, laid out and established agreeably to law, within this State, shall be opened and kept in repair in the manner hereinafter provided; and all county roads shall hereafter be laid out and established agreeably to the provisions of this act; and all county roads shall be sixty feet wide.

County roads
to be 60 feet
wide

Sec. 2. That all applications for laying out or altering any county road, shall be by petition to the commissioners, signed by at least twelve freeholders of the county, residing in the vicinity where said road is to be laid out or altered; and said petition shall specify the place of beginning, the intermediate points (if any) and the place of termination of said road: and one or more of the signers to said petition shall enter into bond with sufficient security, payable to the State of Ohio, for the use of the county, conditioned for the payment of all costs and expenses arising from the view and survey of said road, unless the same shall be established a public highway.

Applications for county roads to be by petition to the commissioners

Petitioners to give bond

Sec. 3. That previous to any petition being presented for a county road, or for the alteration of a county road, notice thereof shall be given by advertisement, set up at the auditor's office, and in three public places in each township through which any part of such road is designed to be laid out or altered, at least thirty days previous to the meeting of the commissioners, at which the petition shall be presented: and on the petition being presented, and the commissioners satisfied that notice has been given as aforesaid, they shall appoint three disinterested freeholders of the county, as viewers of said road, and a skillful surveyor to survey the same; and shall issue an order directing said viewers and surveyor to proceed, on a day to be named in said order, or on their failing to meet on said day, within five days thereafter, to view, survey and lay out or alter said road.

Notice of application how given

Commissioners to appoint viewers and surveyor, and issue an order

Sec. 4. That it shall be the duty of the viewers and surveyor appointed as aforesaid, after receiving at least six days' previous notice by one of the petitioners, to meet at the time and place specified in the order of the commissioners aforesaid, or within five days thereafter, and after taking an oath or affirmation, faithfully and impartially to discharge the duties of their appointments respectively, shall take to their assistance two suitable persons as chain carriers, and one marker, and proceed to view, survey and lay out or alter said road, as prayed for in the petition, or as near the same as in their opinion a good road can be made, at a reasonable expense, taking into consideration the utility, convenience and inconvenience and expense which will result to individuals as well as to the public, if such road shall be established and opened or altered: and the surveyor shall survey such road under the direction of the viewers, and cause the same to be conspicuously marked throughout, noting the courses and distances; and at the end of each mile shall cause the number of the same, and also the commencement and termination of said road or survey, to be marked on a tree or monument erected for that purpose: he shall also make out and deliver to one of the viewers, without delay, a correct certified return of the survey of said road, and a plat of the same; and the viewers shall make and sign a report in writing, stating their opinion in favor of or against

Duty of viewers and surveyor

Road to be conspicuously marked

Viewers to report in writing

ing, and plat the establishment or alteration of such road, and set forth the reasons of the same; which report, together with the plat and survey of said road or alteration, shall be delivered to the county auditor, by one of the viewers, on or before the first day of the session of the county commissioners then next ensuing: and it shall be the duty of the commissioners, on receiving the report of the viewers aforesaid, to cause the same to be publicly read on two different days of the same meeting; and if no legal application shall be made to them for a review of said road or alteration or petition for damage, between the first day of their session at which the report and survey are made, and the second day of their next stated session, and they are satisfied that such road will be of public utility, and the report of the viewers being favorable thereto, they shall cause said report, survey and plat to be recorded, and from thenceforth said road shall be considered a public highway, and the commissioners shall issue their order directing said road to be opened: but if the report of the viewers be against such proposed road or alteration, or if in the opinion of the commissioners the same shall be unnecessary, then no further proceedings shall be had thereon; and the obligor or obligors, in the bond securing the payment of costs and expenses, shall be liable for the full amount of such costs and expenses: *Provided*, That in all cases, where any oath or affirmation is required to be taken by any person under the provisions of this act, the same may be administered by the surveyor, or by one of the viewers or reviewers, who have previously been sworn or affirmed themselves.

Report, etc., to be recorded

If road be not established, obligors of the bond to pay cost

Viewers or surveyor may administer oaths

Any citizen may apply for a review

Review how conducted

Sec. 5. That after the viewers of any county road shall have made return in favor of the same, agreeably to the preceding section, and before said return shall be recorded and the road established, it shall be lawful for any citizen of the county to apply to the commissioners for a review of said road, by petition, signed by at least twelve freeholders residing in that part of the county through which said road is proposed to be established; and the commissioners shall, on such petition being presented, and they satisfied the same is just and reasonable, appoint five disinterested freeholders of the county to review said road, and issue their order to said reviewers, directing them to meet at a time specified in such order, or within five days thereafter: and said reviewers shall meet after having received six days' previous notice by one of the petitioners, and after taking the oath or affirmation required by the preceding section, shall proceed to examine the rout surveyed for said road by the former viewers, and make a report in writing to the commissioners, stating their opinion in favor or against the establishment of said road, and their reasons for the same; and if the report of the reviewers be in favor of said road, the same shall be established, recorded and opened, agreeably to the provisions of this act; and the person or persons bound for

the same, shall pay into the county treasury the amount of the costs of such review; but if the report be against the establishment of such road, no further proceedings shall be had thereon before the commissioners: and the persons executing the first bond shall pay into the county treasury the amount of the costs and expenses of the view, survey and review of said road.

Sec. 6. That if any person or persons through whose land any State or county road may be laid out, shall feel injured thereby, such person or persons may make complaint thereof to the county commissioners, at any time between the session of the commissioners at which the report of said road is made, and the second day of their next stated session; and the commissioners shall appoint three disinterested freeholders of the county, whose duty it shall be after having taken an oath or affirmation to discharge their duty faithfully and impartially, to proceed and view said road the whole distance the same may have been established through the premises of the complainant, and assess and determine how much less valuable the land or premises of the said complainant has been, or will be rendered, by the opening of said road; and they shall report the same in writing to the commissioners at their next meeting thereafter: and if the commissioners shall be satisfied that the amount so assessed and determined be just and equitable, and that said road, will, in their opinion, be of sufficient importance to the public to cause the damages to be paid by the county, they shall order the same to be paid the petitioner from the county treasury; but if in their opinion the said road is not of sufficient importance to the public to cause the same to be paid by the county, they may refuse to establish the same a public highway, unless the damages and expenses are paid by the petitioners.

Sec. 7. That when any county road shall be considered useless, any twelve freeholders residing in that part of the county where such road is established, may make application by petition to the commissioners of the county, to vacate the same, setting forth in said petition the reasons why said road ought to be vacated; which petition shall be presented and publicly read at a regular session of the commissioners, and no other proceedings shall be had thereon until the next session of said commissioners, when it shall again be read as aforesaid: and if no objection be made, the commissioners may, on the last day of that session, declare said road vacated, or any part thereof, which they may deem unnecessary to keep open for public convenience; but if objections be made in writing, signed by at least twelve freeholders residing in the neighborhood of the road proposed to be vacated, the commissioners shall appoint three disinterested persons to view said road, who shall take the same oath or affirmation as is required by the fourth section of this act; and proceed to view the road

Notice of ap-
plication to
be given

aforesaid, and make a report of their opinion thereon, and their reasons for the same, to the commissioners: and if said viewers shall report in favor of vacating said road, or any part thereof, the commissioners may, if they shall deem it reasonable and just, declare said road vacated, agreeably to the report of the viewers; but in case said viewers shall report against vacating said road, then and in that case, no further proceedings shall be had thereon: *Provided*, That previous to any petition being presented under the provisions of this section, the same notice shall be given as is required by the third section of this act.

Proceedings
when the
course of any
road has be-
come uncer-
tain

Sec. 8. That when the place of beginning, or true course of any State or county road shall be uncertain, by reason of the removal of any monument or marked tree, by which such road was originally designated, or from any other cause, the county commissioners of the proper county may appoint three disinterested land holders of the county to review and straighten said road, if they shall deem it necessary; and said reviewers shall cause said road to be correctly marked throughout as in case of new roads, and a correct survey to be made of the same, and shall make a return of said survey, and a plat of said road to the commissioners, who shall cause the same to be recorded, as in other cases: and from thenceforth said road, surveyed as aforesaid, shall be considered a public highway.

Person desir-
ing to turn or
change a
State or count-
y road thro'
his land, how
to proceed

Sec. 9. That if any person or persons through whose land any State or county road is, or may be established, shall be desirous of turning said road through any other part of his or their land, such person or persons may, by notice and petition, agreeably to the second and third sections of this act, apply to the commissioners of the county while in session, to permit him or them to turn said road through any other part of his or their land, on as good ground, and without increasing the distance to the injury of the public: and upon the receipt of such petition, the commissioners shall appoint a surveyor, and three disinterested freeholders of the county, as viewers of said road; who, or any two of whom, shall proceed to view and survey the ground over which said road is proposed to be turned, and ascertain the distance which said road will be increased by such proposed alteration, and make out a report in writing, stating the several distances so found, together with their opinion as to the utility or inutility of making said alteration: and if said freeholders shall report to the commissioners that the prayer of the petitioner or petitioners is reasonable, and that the alteration will not place the road on worse ground, or increase the distance to the injury of the public, they shall, upon receiving satisfactory evidence that the proposed new road has been opened a legal width, and in all respects made equal to the old road for the convenience of travelers, the commissioners aforesaid may (if in their opinion the same will be just and reasonable) declare said new road a public highway, and make record thereof, and at the same time vacate

so much of the old road as is embraced by the new: and the person or persons desiring the alteration aforesaid, shall pay all the costs of the view, survey and return of said alteration.

Sec. 10. That if any person who shall be appointed by the county commissioners as a viewer, reviewer or surveyor of any road, shall refuse or neglect to perform the duties required by this act, without making a satisfactory excuse for such refusal or neglect, he shall be fined in any sum not exceeding five dollars; to be recovered by action of debt, by any person suing for the same, before any justice of the peace within the township wherein the person so appointed, and refusing or neglecting, may reside; and shall be paid over, without delay, by the justice of the peace, or constable, collecting the same, to the treasurer of the township, taking his receipt therefor: and the trustees shall cause all fines which shall be paid into the township treasury, under the provisions of this act, to be expended on roads and bridges within their townships.

Penalty for neglecting to perform duty under this act

How recovered and applied

Sec. 11. That the following persons, required to render services under this act, shall receive compensation for each day they shall necessarily be employed, as follows, to wit: Viewers and reviewers, one dollar; chain carriers and markers, seventy-five cents each; and surveyor, one dollar and fifty cents; to be charged as costs and expenses, and paid out of the county treasury, on the order of the county auditor.

Compensation for services under this act

Sec. 12. That when it shall become necessary to establish a road on a county line, the inhabitants along such line may petition the commissioners of their respective counties for a view of such road, in the manner pointed out in the preceding sections of this act; and it shall be the duty of such boards of commissioners for each of the counties interested, to appoint two discreet landholders as viewers, who, or a majority of them, shall meet at the time and place named in the order of the commissioners of the oldest county interested, who shall appoint a surveyor; and the viewers and surveyor appointed as aforesaid, shall make their report in writing, for or against such road, to the commissioners of the counties concerned: and the said commissioners, upon receiving such report, shall in all respects be governed by the provisions of this act.

Road on a county line, how established.

Sec. 13. That if on receiving such report, the commissioners of all the counties interested shall be of opinion that such road, if opened, would be of public utility, they shall order the same to be opened in the manner pointed out by this act.

Commissioners of all counties interested to concur.

Sec. 14. That when any road is located and ordered to be opened by the provisions of the eleventh and twelfth sections of this act, it shall be the duty of the trustees of the several townships adjoining such road, to select one from their number, whose duty it shall be to meet at some convenient place near the line of the same (the time and place to be appointed by the trustees of the oldest township interested,) previous to the time appointed by law for apportioning labor to their respective road districts,

Duty of township trustees in assigning labor

and shall assign a sufficient number of persons to open such road and keep the same in repair, dividing the road in such manner, that the persons so assigned may work under the orders of the supervisors in the township to which they belong; and the supervisors and persons so assigned shall be governed by the provisions of the act, entitled "An act defining the duties of supervisors of roads and highways."

Road on county line, how opened and repaired
 Sec. 15. That when a road has been, or shall be established, on a county line, the commissioners, trustees and supervisors shall, for the purpose of opening and keeping the same in repair, be governed by the provisions of the eleventh, twelfth and thirteenth sections of this act.

Bond to be taken from applicant in all cases
 Sec. 16. That on all applications made under the provisions of this act, the county commissioners shall, before granting any order thereon, require of the person or persons making such application, a bond, with one or more sufficient sureties, made payable to the State of Ohio for the use of the county, conditioned that the person or persons making such application for a view, review, alteration or vacation of any road, or damages on the same (as the case may be), shall pay into the treasury of the county the amount of all costs and expenses accruing on such view, review, alteration or vacation, or application for damages, in case the same shall not be granted, or the proceedings had thereon finally confirmed or established.

Appeal allowed from the decision of the commissioners
 Sec. 17. That an appeal from the final decision of the commissioners on any petition for a new county road, or for vacating, altering or reviewing any State or county road, or for damages sustained by the same, shall be allowed to the court of common pleas: *Provided*, That notice of such appeal be given by the appellant or appellants during the same session of the commission as the said decision was made; and the appellant or appellants shall, within fifteen days thereafter, enter into bond with sufficient security, to be approved by the county auditor, for the payment of all costs and expenses arising from such appeal, and the court of common pleas may, if in their opinion the interest of the public require the same, order a view or review of such road, or make any other order they may deem just and reasonable in the case; and no order shall issue in any of the cases aforesaid, until after fifteen days shall have expired from the time of making such decision, at which time the auditor shall issue such order, unless an appeal has been perfected agreeably to the provisions of this section.

This act shall take effect and be in force from and after the first day of October next.

JAMES M. BELL,
Speaker of the House of Representatives,
 SAMUEL R. MILLER,
Speaker of the Senate:

March 14, 1831.

AN ACT defining the mode of laying out and establishing township roads.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person or persons shall, for the convenience of themselves and neighbors, wish to have a township road laid out, from the plantation or dwelling place of any person or persons; or from any mill, or house of public worship; or to any public road, or from one public road to intersect another: it shall be lawful for such person or persons to petition the trustees of the proper township, for the same, after giving thirty days' previous notice thereof, by advertisement posted up at three public places within said township, setting forth in said advertisement the place of beginning, intermediate points, if any, and place of termination, of said proposed road.

Application for township roads to be by petition to township trustees
Thirty days' notice to be given

Sec. 2. That on such petition being presented to the trustees, and they being satisfied the proper notice has been given as aforesaid, the petition shall be read in open meeting of said trustees: and they being satisfied that such proposed road is necessary, they shall appoint three judicious, disinterested landholders of the township, and a surveyor, who shall; after being duly sworn, take to their assistance two chain carriers and a marker, and proceed, at the time directed by the trustees, or within three days thereafter, to view the ground along which such road is proposed to be established, as near the prayer of the petitioner or petitioners, as a good road can be had at a reasonable expense; and shall take into consideration the advantages and disadvantages which will arise to the applicant or applicants for said road, as well as to the owner or owners of the land through which it is proposed to establish the same, and the amount of damages he, she, or they may sustain.

Trustees to appoint three freeholders and surveyor
Their duty

Sec. 3. That said viewers shall make a report, in writing, to the trustees, setting forth their opinion in full on the subject, together with a statement of the damages, if any, assessed to each person through whose land the road is proposed to be established; which report, together with a return and plat of the survey of said road, shall be deposited with the township clerk, who shall notify the trustees thereof: whereupon, the said trustees shall, at their next meeting, cause said report to be read: and if the same be in favor of establishing said road, and the trustees deem it reasonable and just, they being satisfied that the damages, (if any have been claimed and assessed,) have been paid or secured to be paid, by the petitioner or petitioners, the clerk of the township shall enter the said report on record; and the trustees shall issue their order to the petitioner or petitioners, or any of them, to open said road thirty feet wide: and from thenceforth, the same shall be considered a private or township road, subject to be kept open and in repair at the expense of the applicant or applicants for the same: but if the viewers shall report that the prayer of the petitioner or petitioners is unreasonable and ought not to be granted, no

To report in writing
Report and plat to be deposited with township clerk
If road be granted, trustees to order petitioners to open same 30 feet wide
When viewers report against

the road, ap- further proceedings shall be had thereon by said trustees; and
plicant to pay all costs accruing under the provisions of this section, shall be
the cost paid by the person or persons making application for such road.

Sec. 4. That an appeal from the final decision of the trustees of the township on any petition or report for a road, shall
Appeal allowed from the decision of trustees be allowed to the court of common pleas; who shall, if in their
opinion justice require it, order another view of said road, or
make any other order which they may deem just and reason-

able in the case: *Provided*, The appellant shall enter into
Appellant to give bond within fifteen days bond to the State of Ohio, for the use of the township, in the
sum of one hundred dollars, with one or more good and sufficient
sureties, to the acceptance of the township treasurer, within fifteen
days from the date of the decision of said trustees, conditioned for
the payment of all costs and expenses arising from such appeal, if the
road shall be established by the court of common pleas; which appeal
shall be entered with the clerk of the proper county, on or before the
second day of the term next after the appeal shall have been taken: and
no order shall issue for opening any township road until fifteen days
after the same shall have been established; at which time the clerk of
the township may issue such order by direction of the trustees, unless
an appeal has been perfected agreeably to the provisions of this section.

Sec. 5. That the fourteenth section of the act, entitled
Acts repealed "An act for opening and regulating roads and highways," passed
February the twenty-sixth, one thousand eight hundred and twenty-four;
and the first section of the act amendatory thereto, passed February the
eighth, one thousand eight hundred and twenty-six; and all laws and
parts of laws, contrary to the provisions of this act; be, and the same
are hereby repealed.

Sec. 6. That whenever any township road becomes use-
less, any one or more residents of the township, may, after giving
the same notice required in the first section of this act, petition the
trustees to vacate the same: and if said trustees shall be satisfied that
the proper notice has been given, and no injustice will be done thereby,
they shall, at their next regular meeting, declare the same vacated, and
give notice thereof to the township clerk, who shall enter the same on
the records of the township.
Township roads, how vacated

This act to take effect and be in force from and after the first day of June next.

JAMES M. BEIL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 11, 1831.

AN ACT defining the duties of supervisors of roads and highways.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all male persons between twenty-one and sixty years of age, who have resided three months in this State, and who are not a township charge, shall be liable yearly and every year, to do and perform two days' work on the public roads, under the direction of the supervisor within whose district they may respectively reside. Who shall be liable to labor on public roads

Sec. 2. That it shall be the duty of every supervisor, to order out every such person resident as aforesaid, between the first day of April and first day of October, annually, to do and perform the work aforesaid, on the public roads within his district; and if any such resident, being personally warned by the supervisor, or by leaving a written notice at his place of abode, or by some person under the direction of the supervisor, by whom such warning can be proven, shall refuse or neglect, having had at least three days' notice, to attend by himself or substitute, to the acceptance of the supervisor, on the day, and at the time and place directed by the supervisor; or having attended, shall refuse to obey the directions of the supervisor, or shall spend the time in idleness or inattention to the duties assigned him: every such delinquent shall forfeit and pay for each day he shall so refuse or neglect to attend, or for any of the offences above specified, the sum of one dollar, to be recovered by action of debt before any justice of the peace, of the proper township, at the suit of the supervisor within whose district such delinquent may reside: and the money so collected shall be paid over to the township treasurer, and accounted for by the said supervisor, at the annual settlement with the trustees of his township. Supervisor to order out, and when
Penalty for refusing to labor or obey orders of supervisor

Sec. 3. That in case any person shall remove from one district to another, who has, prior to such removal, performed the whole or any part of the labor aforesaid, or in other respects has paid the whole or any part of the amount aforesaid, in lieu of such labor, and shall produce a certificate of the same from the supervisor of the proper district, such certificate shall be a complete discharge for the amount therein specified. Person performing labor and removing certificate a discharge

Sec. 4. That every person called upon to perform any labor upon the public roads and highways, under any of the provisions of this act, shall appear at the place appointed by the supervisor, as the hour of seven o'clock, in the forenoon, with such necessary tools or implements as said supervisor may direct; and the supervisor may, if necessary for the improvement of the roads, order any person owning the same, to furnish a team of horses or oxen, and wagon, cart, scraper or plough, to be employed or used on the roads, under the direction of said supervisor, who shall allow such person a reasonable compensation for the use of such team, wagon, cart, scraper or plough, in discharge of any labor or tax due from said person. Laborers to appear at 7 o'clock A. M.
Supervisor may direct owner to furnish teams &c

Sec. 5. That all persons who may be deemed by the supervisor unable to perform, or cause to be performed, the two days' work required by this act, shall be exempted from the requisitions of the same.

Sec. 6. That whenever it shall happen, in consequence of sickness, absence from home, or any other cause, that the two days' work aforesaid, shall not be performed within the time specified in this act, the supervisor shall be authorized to require the performance of such work at any other time.

Sec. 7. That the trustees of townships shall, on the first Monday of March, annually, divide their respective townships into suitable and convenient road districts, and cause a brief description of the same to be entered on the township records; and in case any public road shall be established as a part of the line or boundary of any township, the trustees in the adjoining townships shall meet at some convenient place, as soon after the first Monday of March as convenient, and apportion such road or roads between the two townships, as justice and equity may require, for the purpose of opening and improving the same; and the supervisors and inhabitants of each township shall be bound to work on said road or roads accordingly.

Sec. 8. That the several supervisors, within their respective districts, shall collect by suit or otherwise, all fines, forfeitures and penalties, arising and accruing under the provisions of this act, unless the collection thereof is otherwise herein provided for, and pay the same into the township treasury, on or before the first day of March, annually, taking the treasurer's receipt for the same; which receipt shall be the proper voucher for the supervisor to settle with the trustees for the amount thereof: and all fines and forfeitures sued for, and recovered under the provisions of this act, by any other person than a supervisor, shall be paid over within twenty days, by the justice of the peace or constable collecting the same, to the township treasurer, taking his receipt therefor: and the trustees shall cause all moneys, so paid into the township treasury, to be immediately appropriated to repairing the public roads in such road district wherein such fine or forfeiture accrued: and if any person shall be sued for doing or performing any act or thing required or authorized by this act, such person may plead the general issue, and give this act and the special matter in evidence: and no suit or action shall be brought or maintained, unless it shall have been commenced within six months after the cause of such action shall have arisen: *Provided*, That nothing in this section shall be so construed as to prevent the trustees of any township from collecting or recovering any moneys in the hands of the township treasurer, or supervisors of [roads and] highways.

Sec. 9. That it shall be the duty of each and every supervisor to open, or cause to be opened, all public roads and highways which have been, or may hereafter be, laid out and established

Disabled persons
exempted

Persons not working
in time may
be required to
work at another
time

Trustees to divide
townships
into road districts

Fines and penalties
accruing under
this act, how
collected and
appropriated

This act may be
given in evidence
under general
issue

Proviso

Power of supervisors
in opening,
constructing
and repairing
roads

through any part of the district assigned to such supervisor, and keep the same in repair: for which purpose the supervisors are hereby authorized to enter upon any unimproved lands near or adjoining the public roads; to cut and carry away any timber; to dig, or cause to be dug, and carried away, any gravel, sand or stone, or gather any loose stone, which may be necessary to improve or repair the roads; and to enter on any lands adjoining or lying near the roads, to make such drains or ditches through the same, as they may deem necessary for the benefit of the roads; doing as little injury as may be to said lands: and the drains or ditches so made, shall be kept open by such supervisors, if necessary, and shall not be stopped or obstructed by the owner or occupier of such lands, or any other person or persons, under the penalty of forfeiting a sum not exceeding ten dollars for each offence; to be recovered and appropriated as provided in the preceding section of this act. Penalty for obstructing drains, &c.

Sec. 10. That if any person or persons shall feel aggrieved, by any supervisor's cutting or carrying away any timber or stone as aforesaid, they may make complaint thereof to the county commissioners of the proper county, at any regular meeting, within six months after the cause of such complaint shall exist: and the commissioners shall appoint three disinterested freeholders of the county; whose duty it shall be, after having taken an oath or affirmation to discharge their duty faithfully and impartially, to proceed and examine the matter complained of by the complainant, and assess and determine the damages, if any, and they shall report the same in writing to the commissioners, at their next meeting thereafter: and if the commissioners shall be satisfied that the amount so assessed and determined be just and equitable, they shall cause the amount aforesaid to be paid to the complainant out of the county treasury; but if, upon view, the said freeholders should be of opinion that there is no grievance or cause of complaint, the person or persons so complaining shall pay the costs of such view. Damages for taking timber, stone, &c., how obtained. When no damages are allowed, complainant to pay cost.

Sec. 11. That each supervisor within his district shall erect and keep up, at the expense of the township, at the forks of every State and county road, a post and guide board, or finger board, containing an inscription in legible letters, directing the way and distance to the next town or towns, or public place or places, situated on each road respectively. Supervisors to erect finger boards

Sec. 12. That any person charged with a road tax on the grand levy, may, either personally, or by an agent, discharge the same by labor to be performed on the road within the proper district in that township where such tax may be charged, by any able bodied man, at the rate of seventy-five cents per day for each day's work; which labor shall be performed under the direction of the supervisor of highways, in such township, and within the proper district: and it shall be the duty of such supervisor to give to any person, for whose benefit such labor was performed, a certificate of the amount of such labor, which certificate Manner of discharging road tax by labor

shall specify the amount of tax so paid in labor, and the district and township wherein such labor was performed; also, that said work was done between the first day of April and the first day of October: which certificate shall in no case be available for any greater sum than shall be charged against such person in the district where such labor was performed; and the treasurer shall receive all such certificates as money, in the discharge of such road tax.

Supervisors to
give notice to per-
sons charged
with road tax

Sec. 13. That the supervisors of highways of the several districts, shall give three days' notice to the persons residing in the district, charged with the road tax mentioned in the preceding section, and of the time and place they will attend, and direct the work to be performed as aforesaid: and in case the whole of said tax due from residents within any district, shall not be paid in pursuance of the first notice as aforesaid, in consequence of absence from home, sickness or other inability, the supervisor shall appoint a time that he will again attend, and superintend the work due from such delinquents, and shall give notice as aforesaid to such delinquents.

Supervisors at
all times to re-
move obstruc-
tions from roads,
and repair bridg-
es

Sec. 14. That any time during the year, when any public road shall be obstructed by the fall of timber, or any other cause, or any bridge shall be impaired, so that the passage of teams or travelers on said road or bridge shall be dangerous, and the supervisor in the district in which such obstruction or impaired bridge may exist, shall be notified of the same, it shall be his duty to cause such obstruction to be removed, or bridge repaired, forthwith; for which purpose he shall immediately order out such number of the inhabitants of his district as he may deem necessary to remove said obstructions, or repair said bridge.

Penalty for refus-
ing to attend, &c.
when ordered by
supervisor

Sec. 15. That each and every person or persons who shall, after having one day's notice, refuse or neglect to attend with proper implements wherewith to labor, at the time and place appointed by the supervisor, or having attended, shall refuse to obey the directions of the supervisor, or shall spend the time in idleness or inattention to the duty assigned him or them; every such delinquent or delinquents shall forfeit and pay the sum of one dollar for every such offence; to be recovered, paid over, accounted for, and appropriated, agreeably to the provisions of this act.

Supervisor to
give certificate
for extra labor

Its effect

Provided

Sec. 16. That in all cases where any person shall, under the direction of his supervisor, perform more labor on the public roads than may be due from him, the supervisor shall give such person a certificate, specifying the amount of extra labor so performed; which certificate shall be assignable, and received for the amount specified in such certificate, in discharge of any labor within the same road district, which may be due from the holder of such certificate, in any succeeding year, under the provisions of this act: *Provided*, That the two preceding sections shall not be so construed as to authorize any supervisor

to order out or direct any person to perform more than two days' work in any one year, over and above the amount of labor due from such person, agreeably to the provisions of this act.

Sec. 17. That the trustees of townships shall meet at the place of holding their annual township election, on the first Monday of March annually, at which time and place the several supervisors of the township shall attend, and each produce his lists and accounts, together with the township treasurer's receipt for all taxes, fines, penalties and forfeitures by him collected; and the trustees are hereby authorized and required to adjust and settle all accounts so produced to them, and to allow such amount for delinquencies as they shall deem just and reasonable: and if, upon a fair and accurate settlement, there shall appear to be a balance due to any supervisor for his services under this act, the trustees shall give him an order on the township treasurer for the amount due: *Provided*, That the supervisor shall in all cases be held accountable for the full amount of labor due in his district, unless for good cause shown the trustees shall deem it just to remit the same.

Supervisors to settle with township trustees on first Monday of March annually.

Sec. 18. That each and every supervisor who shall neglect or refuse to perform the several duties enjoined on him by this act; or who shall, under any pretence whatever, give or sign any receipt or certificate, purporting to be a receipt or certificate for labor or work performed, or money paid, unless the labor shall have been performed, or tax paid, prior to the giving or signing such receipt or certificate: every supervisor so offending shall forfeit for every such offence, not less than five dollars, nor more than fifty dollars; to be recovered by indictment in the court of common pleas, or by action of debt before any justice of the peace within the township where such supervisor may reside: and it is hereby made the duty of the trustees of townships to prosecute all offences against the provisions of this section: *Provided*, That if any supervisor shall conceive himself aggrieved by the judgment of such justice of the peace, he may, on giving sufficient security to said justice for the payment of costs, appeal to the court of common pleas, who shall make such order thereon as to them shall appear just and reasonable: *Provided further*, That this section shall not be construed to prevent any person from prosecuting any supervisor for an offence against the provisions thereof.

Penalty for neglect of duty by supervisor

How recovered

Supervisor may appeal

Provided

Sec. 19. That it shall be the duty of the several courts of common pleas, to give this act in charge to the grand jury, at each successive term of such courts.

This act to be given in charge to grand jury

This act to take effect and be in force from and after the first day of October next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 7, 1831.

SECURITY OF BRIDGES.

AN ACT for the better security of toll and other bridges within this State.

Persons obliterating, etc., list of rates of toll, liable to action

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall wilfully deface, obliterate or destroy the letters, figures or other characters, in any painted, written or printed list of the rates of tolls, or any other painted notice affixed or posted up in any place upon any toll bridge within this State, for the information of passengers and others; every person so offending shall forfeit and pay to the owner or owners of such toll bridge, where such injury was done, any sum not exceeding fifteen dollars, nor less than five dollars; to be recovered at the suit of the owner or owners of such toll bridge, before any justice of the peace in the township in which such offence may be committed.

Not to ride or drive faster than a walk

Sec. 2. That if any person shall ride or drive over any such bridge faster than a walk; every person so offending, shall forfeit and pay to the owner or owners of such bridge, any sum not exceeding five nor less than one dollar; to be sued for and recovered as is provided in the first section of this act: *Provided*, That the owners of such bridge shall cause to be painted in large letters, and put up in a conspicuous place at each end of the bridge, a notice cautioning all persons against riding or driving on the bridge faster than a walk.

Forfeiture for driving over bridge greater number of cattle than allowed by owner

Sec. 3. That if any person shall drive over any such bridge, at one time, any drove of cattle or horses, in greater numbers than the owner or owners of such bridge shall permit and allow, such person or persons being warned by such owner or owners of the number of cattle or horses permitted or allowed to be driven over such bridge at any one time; every person so offending shall forfeit and pay to the owner or owners of such bridge, any sum not exceeding twenty dollars; to be sued for and recovered as is provided by the first section of this act.

Regulation of free bridges

Sec. 4. That such free bridges on all public roads, as in the opinion of the county commissioners in their respective counties throughout this State are of public utility, and demanding their attention, shall be provided for as in the second and third sections of this act; and the county commissioners are authorized and required to place up the like notice as is required in the second section of this act, and likewise the number of neat cattle and horses admitted to cross said bridge at any one time, under the same penalties as provided for in the aforesaid sections; to be sued for and recovered at the suit of the county commissioners, or their agent or agents, in an action of debt before any justice of the peace in the township in which said bridge or bridges are erected, and paid into the county treasury, to be applied to the repairing of said bridge.

Common law remedies remain

Sec. 5. That nothing in this act contained shall be construed to take away from the owner or owners of such bridge, any action for damages which, without this act, they might have had against any person for any injury done to such bridge.

Sec. 6. That the act for the better security of toll bridges Act repealed within this State, passed February fourth, eighteen hundred and fifteen, be repealed.

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

February 11, 1824.

AN ACT for the protection of the Ohio Canals.

Sec. 1. *Be it enacted by the General Assembly of the State of* Penalty for trans-
passing on the
towing path of
the canal *Ohio,* That every person who shall lead, drive or ride any horse, ox or ass, mule or other animal, upon the towing path, or the bank opposite to the towing path, of any canal, authorized by the laws of this State, except for the purpose of towing boats or other floating things upon the waters thereof, and except for the purpose of conveying articles to and from the said canals, in order to their transportation on the waters of the same, or their delivery at their place of destination; shall forfeit for every such offence, the sum of five dollars, and pay all damages consequent upon such offence, over and above the said forfeiture.

Sec. 2. That if any boat or other floating thing, shall be so Penalty for ob-
structing the na-
vigation of the
canal moored in any of the canals as to obstruct the navigation thereof; or if any person or persons shall obstruct the navigation of any of the said canals, by means of the loading, unloading, misplacing or otherwise misconducting any boat or other floating thing, and shall not immediately, upon being required thereto by any commissioner, engineer, superintendent or agent, employed on said canals, or by any person incommoded by such obstruction, remove the same; the boatman or person who caused said obstruction, shall forfeit for every such offence the sum of twenty-five dollars, over and above the expense of removing said obstruction.

Sec. 3. That if any person or persons shall obstruct the na- Penalty for sink-
ing timber,
stone, etc., in the
canal, or placing
obstructions on
the towing path
thereof vigation of either of said canals, by sinking any vessel, timber, stone, earth or other thing or things, to the bottom of either of said canals, or by placing any obstruction on the towing path thereof, or on the bank opposite the towing path thereof; such person or persons shall forfeit for every such offence the sum of twenty-five dollars, over and above the expense of removing said obstruction.

Sec. 4. That if any person or persons shall wantonly or un- Penalty for inju-
ring or destroy-
ing locks, gates,
etc., of the canals necessarily open or shut, or cause to be opened or shut, any lock, gate, or any paddle or culvert gate thereof, or any waste

gate; or drive any nails, spikes, pins or wedges, into either of said gates; or take any other mode of preventing the perfect and free use of either of said gates; or shall wantonly or maliciously break, throw down or destroy any bridge on either of the said canals; such person or persons shall, for every such offence, forfeit the sum of fifty dollars, and pay all damages consequent upon such offence, over and above the said forfeiture.

The lien of the State on materials for the canal not to be affected by sales, etc.

Sec. 5. That all materials that shall have been procured by any contractor for the construction of any part of said canals, or of any works therewith connected, shall, from the time they are prepared for transportation to the place where they are to be used, be subject to the lien of the State, for all moneys that may have been, or shall be, advanced by the State, during the performance of said contract, and for all damages that may be sustained in consequence of the non-performance thereof; and no sale by the said contractor, or under an execution, issued upon any judgment or decree, shall in any wise affect said lien.

Penalty for injuring banks, culverts, etc. :

Sec. 6. That if any person or persons shall wilfully and maliciously break, throw down or destroy any lock, bank, waste-weir, dam, aqueduct or culvert belonging to any canal, authorized by the laws of this State; such person or persons shall, for every such offence, be deemed guilty of a misdemeanor: and on conviction thereof before the court of common pleas of the proper county, be sentenced to imprisonment in the penitentiary at hard labor, for any time not less than three, nor more than seven years, at the discretion of the court; and shall, moreover, be liable to pay all damages sustained in consequence of such offence.

Penalty for taking water out of canal without permission in writing

Sec. 7. That no person shall construct any wharf, basin or watering place on, or make or apply any device whatever, for the purpose of taking water from either of the said canals, without first obtaining permission therefor of one of the acting commissioners, or of the principal engineer of the canal, where such wharf, basin, watering place or device, as aforesaid, is desired, in writing: and if any person shall offend against this section, by attempting to make any such construction, or apply such device without such permission; or shall not conform to the directions of the acting commissioner or engineer, who may give such permission, in respect to the location and size of such wharf, basin, watering place or device as aforesaid; such person shall, for every such offence, forfeit the sum of twenty-five dollars: and the said acting commissioner or engineer shall be authorized, at the expense of the person thus attempting, to remove and destroy every such wharf, basin, watering place or device as aforesaid.

Proceedings when a road is occupied by the canal:

Sec. 8. That in all cases in which it shall be deemed necessary by the principal engineer, or acting canal commissioner, in laying out the line of any canal authorized by the laws of this State, or any work connected therewith, to discontinue and

After any public road or highway; such engineer or acting canal commissioner shall be authorized to make such discontinuance or alteration: and upon his drawing up a plat, with a true description, in writing and figures, of all such parts of any public road or highway, as he may discontinue or new lay, on the account aforesaid, and filing the same in the office of the county auditor of the county in which such discontinuance and alteration may be situated, the same shall be lawful; and the new laid road, as described in said plat, shall be deemed a public highway, of the same width that such road so discontinued or altered was, and shall be entered on the record of roads, by the county auditor, as such; *Provided, however,* That the canal commissioners shall, before they obstruct the passage on any part of a highway, now legally established, open and reasonably work in order to render it passable, such part of said highway as may be new laid by such engineer or acting canal commissioner, as aforesaid; and the certificate of said engineer, or acting canal commissioner, in writing, that the part of any highway, new laid as aforesaid, is opened and reasonably worked as aforesaid, by said canal commissioner, shall be sufficient for their justification: and that every alteration, heretofore made by any engineer or acting canal commissioner, in any public road or highway, on either of the said canals, shall, from the time of such alteration, be deemed lawful to all intents and purposes.

Sec. 9. That in all cases when a new road or public highway is laid out by legal authority, in such direction as to cross the line of any canal or navigable feeder, authorized by the laws of this State, after the line of such canal or feeder is permanently located and established, and in such manner as to require the erection of a new bridge over such canal or feeder, for the accommodation of said road; such bridge shall be constructed and forever maintained at the expense of the county in which such bridge is situated: *Provided, however,* That no bridge shall be constructed across either of said canals or navigable feeders, without first obtaining for the model and location thereof, the consent, in writing, of one of the acting canal commissioners, or the principal engineer of the canal to be intersected by said road: and if any person or persons shall undertake to construct or locate said bridge, without such consent, and shall proceed therein so far as to place any materials for that purpose on either bank of the canal, or on the bottom thereof, he or they shall be subject to a penalty of fifty dollars for such undertaking; and either of said commissioners or engineers shall be authorized to remove all such materials so soon as they are discovered, wholly without the banks of the canal.

Sec. 10. That for all damages done to either of the said canals, or any work connected therewith, either of the acting commissioners, or resident engineer, shall be authorized to sue

Proviso as to
opening new
road by canal
commissioners

New roads cross-
ing the line of
canal, to be
bridged

Proviso as to en-
gineer furnish-
ing the model of
the bridge

Further proviso

Manner of
proceeding against
persons injuring
the canals

PROTECTION OF

the offender or offenders, in the name of the State of Ohio, in any court of competent jurisdiction: and if a verdict or judgment shall be given against any person or persons for such damages, the plaintiff shall recover the same, with full costs of suit: and in all cases in which suits are brought, it shall be the duty of the canal commissioners to have accurate accounts kept of the amount of recoveries, and of costs and expenses; and after deducting the said costs and expenses from said amount, to pay the residue of said recoveries over to the State treasurer, subject to the order of the commissioners of the canal fund.

Wines, etc., to be
paid into the
State treasury

Sec. 11. That all penalties and forfeitures created by this act, the recovery of which is not otherwise herein provided for, may be sued for and recovered before any justice of the peace in any county where such penalty or forfeiture shall accrue, in the name of the State of Ohio, by either of the canal commissioners, resident engineers, or any collector of toll, duly appointed by said commissioners; and the amount of such penalties and forfeitures, when recovered, shall be paid over to the treasurer of State, subject to the order of the commissioners of the canal fund.

Canal commis-
sioners, on ap-
plication, to ap-
point appraisers
of damages, and
to pay the same

Sec. 12. That it shall be the duty of either of the acting canal commissioners, on application being made to him for the assessment of damages for any lands, waters, streams or materials, deemed necessary, taken and appropriated for the prosecution of the improvements intended and authorized by virtue of the act, entitled "An act to provide for the internal improvement of the State of Ohio by navigable canals," to appoint appraisers for the assessment of such damages, and to pay the same agreeably to the provisions of the eighth section of said act; any thing therein to the contrary notwithstanding.

WM. W. IRVIN,

Speaker of the House of Representatives.

ALLEN TRIMBLE,

Speaker of the Senate.

January 31, 1826.

AN ACT to amend the act for the protection of the Ohio Canals.

Manner of recov-
ering damages

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That for all damages done to either of the canals constructing under the authority of this State, the offender or offenders shall be proceeded against by indictment in the proper courts: and on complaint being made to any judge or justice of the peace of the proper county, against any person or persons doing any such damage as is mentioned in the first, second, third and fourth sections of the act to which this is an amendment, it shall be the duty of such judge or justice forth-

with to issue a warrant to the proper officer, to arrest and bring before him, such offender or offenders; and if, upon the return of such warrant, it shall appear to the satisfaction of such judge or justice that such complaint is true, he shall commit such offender or offenders, if he or they shall refuse to give security for their appearance at the next court of common pleas for the proper county, to answer to said complaint: *Provided, however,* That if the offender or offenders shall pay to such judge or justice of the peace the penalties, forfeitures and expenses, which he or they may have incurred, together with the costs of prosecution, such offender or offenders shall be discharged.

Sec. 2. That the canal commissioners be, and they are hereby authorized and empowered, to cut a navigable side cut or branch canal, from the main canal, to enter the Muskingum river at or near the town of Dresden, when, in their opinion, the interest of the State may require such side cut or branch canal: and also, to construct, or permit to be constructed, a navigable communication between the Miami canal and the town of Hamilton, in the county of Butler; and, if they should deem it inexpedient to construct such communication at the expense of the State, they may permit it to be done at the expense of individuals desiring such communication, under such regulations and restrictions as will secure the interest of the State.

Sec. 3. That the canal commissioners shall, from time to time, make such rules and regulations, not inconsistent with the laws of the State, in respect to size and structure of boats, rafts and other floats, on the waters of the canals, and the weighing and inspecting of boats, and their loading, and in respect to all matters connected with the navigation of the canals; and impose such forfeitures of money, for the breach of such rules and regulations, as they may judge reasonable: and to provide for the detention and sale of any such boats, rafts and other floats, as shall or may contravene such rules and regulations, in cases where the owner or owners of such boats, rafts, or other floats, shall neglect or refuse to pay such forfeiture: *Provided,* That no forfeiture so imposed, shall, for a single offence, exceed the amount of actual damage done thereby, more than twenty-five dollars: *And provided, also,* That nothing in this section shall be construed to prevent said forfeitures being recovered by action of debt, at the suit of any canal commissioner, or any of the officers or agents employed by said commissioners, who are hereby authorized to sue for and recover the same for the use of the State.

Sec. 4. That the canal commissioners shall cause a sufficient number of all such rules and regulations, including the forfeitures for the breach thereof, to be printed; and shall distribute the same to the superintendents, the collectors of tolls, and lock keepers, to be kept in their respective offices for public inspection.

Sec. 5. That whenever, in the opinion of the board of canal

Canal Commissioners may sell surplus water commissioners, any water may be spared from any State canal, or works connected therewith, without injury to the navigation or safety of such canal, the board may order a sale of such surplus water, for a term of years, in their discretion, to the person who shall bid the highest annual rent therefor: *Provided*, The same shall not in any wise interfere with the rights of individuals.

Collectors of toll may administer oaths Sec. 6. That the collectors of tolls on the canals shall be, and they are hereby authorized, to administer oaths in all cases wherein oaths may be required to be administered, in performing the duties required of them in their offices.

Powers of commissioners in drawing off water, &c. Sec. 7. That any acting commissioner, engineer, or superintendent, duly appointed, shall have full power and authority, at any time, to cause the water to be drawn off, either wholly or partially, from any level or levels of either of the canals, which may be under the charge of such acting commissioner, engineer or superintendent; and to cause the water to remain wholly or partially drawn off during such time as he may deem necessary, for the purpose of repairing or preventing any breach or breaches, or removing any bar or other obstruction to navigation; or for the purpose of making, repairing or improving any work or device, or part of any work or device, appertaining to, or connected with any such part of the canals: and for the purpose of so drawing off the water, or causing the same to remain drawn off, as aforesaid, to open or to close any lock gate, culvert gate, paddle gate, feeder gate, or waste gate; or to cut or make an opening, gap, or aperture, in any bank, and to cause the said gates or apertures to remain open or shut, as aforesaid, so long as the same shall, in the opinion of such person, be necessary for any of the aforesaid purposes: *Provided, however*, That every engineer or superintendent shall, in the exercise of the authority hereby granted, be subject to the orders and instructions of the acting commissioner, or any engineer of superior grade, having charge of the part of the canal affected, or liable to be affected, by the exercise of said authority.

Penalty on individuals for opening or shutting, &c., without consent Proprio Sec. 8. That if any person, except a commissioner, engineer, or superintendent, shall, under any pretence, or for any purpose whatever, open any gate which shall have been shut, or shut any gate which shall have been opened, as specified in the preceding section, without the express direction of the acting commissioner, engineer or superintendent, who shall at that time have charge of that part of the canal; or shall in any way interfere in raising or drawing down the water on any level of either of the canals, contrary to the directions or orders of the acting commissioner, engineer, superintendent or lock tender, having charge of any lock, or part of the canal liable to be affected by such interference; every person so offending shall, for every such offence, forfeit and pay the sum of twenty-five dollars, and moreover be liable for all damages conse-

quent upon any such opening or shutting of any gate, or interference.

Sec. 9. That the captain or master, and the owner of any boat or other float, on either of the canals authorized to be made in this State, and likewise the boat or float itself, shall severally be liable to the payment of any penalty, forfeiture, and likewise to all damages, which may accrue in consequence of the violation of any of the provisions of any law of the State, or any order of the board of canal commissioners, duly made and published, relating to the canals, the navigation thereof, or the collection of tolls thereon, by any person navigating any such boat, or assisting in the navigation or management thereof, at the time of such violation; and any such boat or other float may, at the discretion of either acting commissioner, or any collector of toll, be prevented from navigating either of said canals until such penalty, forfeiture and damages, and costs accrued in prosecuting therefor, shall be fully paid.

Sec. 10. That all laws and parts of laws, inconsistent with the provisions of this act, be, and the same are hereby repealed,

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

February 11, 1828,

AN ACT in addition to the several acts for the protection of the Ohio Canals, and for other purposes.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That no person or persons shall draw water from either of the canals of this State, for the use of mills or machinery of any kind, nor for any purpose whatever: nor shall any person or persons use any water power which shall have been created by the construction of any dam or feeder, made for the purpose of supplying with water either of said canals, or for the purpose of improving the navigation of any river or stream: nor shall any person use for any hydraulic purpose, any water conducted round any lock, on either of said canals, or in any manner obstruct or interfere with the water, in its passage round any lock; unless such person or persons shall, in each case, have purchased from the canal commissioners, the right to use such water or hydraulic power; and unless such person shall, moreover, comply with all the conditions which shall have been attached to the use of such water, in such purchase.

Sec. 2. That every person who shall offend against any of the provisions of the preceding section, shall, for every such offence, forfeit and pay the sum of one hundred dollars; to be recovered for the use of the canal fund, by indictment before

any court of competent jurisdiction; and every continuance to use, draw, or interfere with the water, as specified in the preceding section, without having first purchased the right to do so, or without having complied with the conditions attached thereto, shall, for each day, be judged a new offence, and shall subject the person offending to the same penalty herein before specified.

Sec. 3. That whenever, in the opinion of the board of canal commissioners, there shall be surplus water in either of the canals, or in the feeders, or at the dams erected for the purpose of supplying either of said canals with water, or for the purpose of improving the navigation of any river, and constructed at the expense of the State, over and above the quantity of water which may be required for the purposes of navigation, the said commissioners may order such surplus water, and any lands granted to, or purchased by the State, for the purpose of using the same, or such part thereof as they may deem expedient, to be sold for hydraulic purposes; subject to such conditions and reservations as they may consider necessary and proper, either in perpetuity or for a limited number of years, for a certain annual rent, or otherwise, as they may deem most beneficial for the interests of the State.

Sec. 4. That the provisions of the foregoing section, shall extend to, and include, the water passing round locks, from one level to another, on either of the canals of this State.

Sec. 5. That no hydraulic power, nor right to the use of any water, shall be sold, leased, or conveyed, except such as shall accrue from the surplus water of the canal, feeders, or dams, or from the water passing round any lock, after supplying the full quantity necessary for the purposes of navigation.

Sec. 6. That every lease, grant or conveyance of water power, shall contain a reservation and condition, that the State, or its authorized agents, may at any time resume the privilege or right to the use of water, or any portion thereof, whenever it may be deemed necessary for the purposes of navigation, or whenever its use for hydraulic purposes shall be found in any manner to interfere with, and injuriously affect, the navigation of either of the canals, feeders or streams, from which the water shall be taken for such hydraulic purposes; and whenever such privilege shall be resumed, in whole or in part, the sum paid therefor, or the rent reserved, or such reasonable portion thereof as shall be determined upon, agreeably to the conditions and stipulations of the lease or deed of conveyance aforesaid, shall be refunded, or remitted to the purchaser or lessee, his heirs or assigns.

Sec. 7. All moneys received for the rent or sale of any hydraulic power, granted or conveyed under the provisions of this act, shall be paid into the State treasury, and constitute a part of the canal fund; and shall be subject to the same rules and regulations as are prescribed in the sixth section of the act to

Water power and land to be sold by the canal commissioners in certain cases

Provisions explained

Right of selling water, restricted to certain cases

No sale to be absolute, and the right reserved to re-enter in certain cases

Proceeds of sales how appropriated

provide for the internal improvement of the State of Ohio, by navigable canals.

THOMAS L. HAMER,
Speaker of the House of Representatives.
 ROBERT LUCAS,
Speaker of the Senate.

February 28, 1830.

AN ACT to regulate the navigation and collection of tolls on the Canals of this State.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That no boat or vessel of any kind, except such as shall have a firm and permanent bow, which shall be at least as sharp or acute as a semi-circle, shall be permitted to navigate or float on either of said canals of this State, under a penalty of ten dollars; for the payment of which such boat or vessel, and also the owner thereof, shall severally be liable; and every time such boat or vessel shall be moved on either of said canals, the distance of one mile or upwards, shall be considered a distinct offence.

Description of boats permitted to navigate the canals

Sec. 2. No raft or float, composed in whole or in part of round or unhewn timber, shall be permitted to float, or be navigated on either of the canals of this State; nor shall any fire wood, or other split or sawed wood or lumber, be transported on either of said canals, otherwise than on board of such boat as may lawfully navigate the same, under the penalty of ten dollars for every offence in either of the cases herein specified; for the payment of which penalties such raft or float, and also the owners thereof, shall severally be liable.

Description of rafts or floats allowed to navigate the canals

Sec. 3. If any person in navigating or managing, or assisting in the navigation or management of any boat or other float, on either of the canals of this State, shall, through design or negligence in the navigation or management thereof, injure any lock, lock-gate, waste-gate, guard gate, bridge, aqueduct, or other work or device, appertaining to either of said canals; such person shall, for every such offence, forfeit and pay the sum of twenty five dollars, as a penalty for such offence; and every master, owner, or part owner of such boat or float, and also the boat or float itself, shall severally be liable for the payment of such penalties, and moreover be liable for the payment of all damages occasioned by such mismanagement or negligence.

Penalty for mis-managing boats, &c.

Sec. 4. No float shall move on either of the canals faster than at the rate of three miles an hour, where such canal, or the part thereof on which such float shall move, shall have been at such time navigated less than one year; and in no case shall any float move on either of the canals faster than at the rate of four miles an hour; under the penalty, in either case, of ten dol-

Rate at which vessels may move on the canals

lars for every violation of this section; for the payment of which the master, manager, owner or part owner of such float, and also the float itself, shall severally be liable.

Manner of boats,
etc. passing each
other on the ca-
nals

Sec. 5. When a boat or other float shall overtake any other boat or float on either of the canals, it shall be the duty of the master or manager of the latter, to turn from the towing path, and give to the former every practicable facility for passing, and to stop whenever it shall become necessary, until the boat or float first mentioned, shall have fully passed.

Continued

Sec. 6. When any float, in passing on either of the canals, shall meet any other float, passing in an opposite direction, it shall be the duty of the master of each to turn to the right hand, so as to be wholly on the right side of the center of the canal; and the horses or other moving power of the boat, which, in turning to the right as aforesaid, shall turn from the towing path, shall be stopped so as to allow the moving power of the other, and the float itself, to pass freely over the towing rope of the float so turned from the towing path.

Continued

Sec. 7. Whenever two or more floats, moving in opposite directions on either of the canals, shall at the same time approach any place, where, from the contracted breadth of such canal, or other cause, they cannot safely pass each other; it shall be the duty of the master of every such float, going from Lake Erie on the Ohio canal, or from the Ohio river on the Miami canal, or from Columbus on the Columbus feeder, to stop at such distance from such place, as will permit the float or floats moving in the opposite direction conveniently to pass by, and there to wait until such passage is effected.

Manner of pass-
ing locks

Sec. 8. Any float moving on either of the canals, which shall have arrived within one hundred yards of any lock, in which the water is on the same level with such float, shall be permitted to pass such lock, before any float not on the same level.

Preference to be
given when
more than one
boat is to pass a
lock

Sec. 9. If on the arrival of any two or more floats, at or near to any lock, a question shall arise between their respective masters as to which shall be first entitled to pass, such question shall be determined by the lock keeper, or any other agent of the State having charge of such lock, if any such lock keeper or agent be present; and each float shall be passed in the order and manner in which such lock keeper or other agent of the State shall direct.

No iron pointed
pole to be used

Sec. 10. No setting pole or shaft, pointed with iron, steel, or other metal, shall be used in the navigation or management of any float on either of the canals of this State.

Opening and clos-
ing lock gates

Sec. 11. No person shall attempt to pass any float into any lock, or out of any lock, until the main gates at the head or foot of said lock, as the case may be, between which gates such float shall be about to pass, shall first be entirely opened into their respective recesses, nor until all paddle and culvert gates of such lock shall be closed.

Sec. 12. Neither of the main gates at the head or at the ^{Continued} foot of any lock shall be closed, nor allowed to close of their own accord, while either of the paddle or culvert gates at the opposite end of such lock shall remain open.

Sec. 13. When any float shall pass out of any lock, the main ^{Continued} gates of such lock, through or between which such float shall have passed out, shall be left entirely open, and completely within their respective recesses; and all the paddle and culvert gates of such lock shall be left closed: *Provided, however,* That where the acting commissioner or superintendent having charge ^{Provide} of that part of the canal in which such lock is situated, shall direct any paddle, culvert or other gate, to be left open for the purpose of passing water through the same, such direction shall be complied with and obeyed by all lock keepers, masters of floats, boatmen, and all other persons concerned in navigating such canal.

Sec. 14. No boat or other float shall be permitted to pass ^{Entering of a} into any lock, nor to strike against any part thereof, with such ^{lock} force as to injure, or be liable to injure, any part of such lock, or any gate or other work or device appertaining thereto, or designed to protect the same.

Sec. 15. No lock-gate, culvert gate, or paddle-gate, shall be ^{Closing gates} closed, nor permitted to close itself, with such violence, as to injure, or be liable to injure the same.

Sec. 16. Every master of any float who shall violate either ^{Penalty for violat-} of the provisions of the eleven sections next preceding this ^{ing the provi-} section, or who shall permit any boatmen or other person ^{sions of the fore-} assisting in the navigation or management of such float, to vio- ^{going sections} late either of the said sections, or any provision thereof, shall, for every such violation, forfeit and pay the sum of ten dollars; and every owner, or part owner, of any such float, and also such float, shall severally be liable for the payment of all penalties so as aforesaid incurred, and shall moreover be liable for the payment of all damages which may be occasioned by such violation: and every lock-keeper who shall violate either of the provisions of the five preceding sections, shall forfeit the sum of ten dollars for every such violation.

Sec. 17. Every person who shall wilfully, or through gross ^{Negligence; in} negligence, obstruct the navigation of either of the canals of ^{navigating, how} this State, by the improper moving, management, or conduct of ^{punished} any boat or floating thing, shall, for every such offence, forfeit the sum of ten dollars.

Sec. 18. Every person who shall wilfully, or through gross ^{Penalty for ob-} negligence, obstruct the navigation of either of the canals of ^{structing canals} this State, by sinking any vessel, timber, stone, earth or other thing, in any part thereof, or by placing any obstruction on the towing path thereof, or on the bank opposite to the towing path, shall forfeit the sum of twenty dollars.

Sec. 19. Every person who shall incur a penalty under either of the two next preceding sections, by committing any

Private damages allowed offence therein specified, shall moreover be liable to the State, and to every person injured thereby, for the payment of all damages which shall accrue in consequence of such offence.

Articles found in the canals, to be seized and sold Sec. 20. It shall be the duty of every engineer, collector, superintendent or agent, employed on either of the canals, to seize all boats, rafts, logs, and every floating or sunken thing, which may be found in either of said canals; and all articles found on the towing path thereof, not under the charge of any person, and to sell the same at public vendue, after giving ten days' previous notice thereof in writing, posted up in two public places near the place where such boat or other articles or thing may be found.

Owner may claim and pay cost Sec. 21. If the owner of any article so seized, shall appear and claim the same before the time of sale, and pay the cost of seizure and expense of removal, such sale shall not take place.

Proceeds of sale how disposed of Sec. 22. If the officer making such sale shall not be a collector, the avails of such sale shall be accounted for by him to the nearest collector, who shall account for the same as for tolls collected; and if the sale be made by a collector, he shall account for the avails thereof in the same manner.

Owner may claim proceeds Sec. 23. After any such sale shall have been made, and the proceeds thereof shall be in the hands of the collector or officer making such sale, such collector or other officer may, on the application of the owner, and due proof of ownership, pay over such proceeds to such owner, after deducting all penalties, forfeitures, costs, and reasonable expenses chargeable thereon.

Board to appoint collectors Sec. 24. The board of canal commissioners, until otherwise provided by law, shall appoint so many collectors of canal tolls on each of the canals of this State, as they shall deem necessary for the punctual collection of tolls on such canals; shall require each collector to give bond with sufficient security, for the faithful performance of his duties, in such sum as the board shall prescribe; shall designate the place where the office of each collector shall be kept; and shall determine what reasonable salary or other allowance, shall be received by each collector for his services.

Their term of office limited May be removed Sec. 25. Collectors of canal tolls shall be appointed for such term as the board of canal commissioners shall deem expedient, not exceeding three years; but any collector shall be subject to be removed at any time during the period for which he shall have been appointed, for malfeasance in office, or for neglect of duty, whenever the president of the board of canal commissioners, together with the acting commissioner having charge of that part of the canal on which the office of such collector is situated, shall believe the public interest requires such removal, or when the provisions of the law shall require the same.

Vacancies Sec. 26. In case of the removal of any collector, as provided in the preceding section, the president of the board and acting canal commissioner by whom such removal shall have been made, may appoint some other suitable person to such vacant

office, who shall hold such appointment until the end of the next meeting of the board, unless removed as hereinbefore provided.

Sec. 27. Any clerk duly authorized by a collector, may, in the absence of the collector, perform all the duties, and exercise all the powers, legally appertaining to such collector; and the collector shall be responsible for the acts of such clerk. Clerk's power

Sec. 28. Collectors may be authorized to refund tolls or penalties, erroneously paid to them, or which equitably ought to be refunded, under such regulations as shall be prescribed by the board of canal commissioners; which regulations shall not be inconsistent with the constitution and laws of this State. Tolls improperly paid

Sec. 29. The owner or owners of every boat navigating either of the canals, shall subscribe and deliver to the collector of whom the first clearance for such boat shall be demanded, a certificate, to be entitled a "certificate of registry," containing the name or names of such owners, and their respective places of abode, and also the name of the boat, and of some place as that where it is owned: if the owners shall reside out of this State, the certificate of registry shall be signed and delivered by the master of the boat, as the owner thereof. Registry of boats

Sec. 30. If the master of the boat of which the owners reside out of the State, shall be changed after he shall have delivered such certificate, the new master shall sign and deliver a proper certificate of registry, to the collector of whom he shall first require a clearance. Continued

Sec. 31. Every collector receiving a certificate of registry, shall sign and deliver to the person of whom he shall receive the same as aforesaid, a written receipt therefor; and shall without delay record the same, in a book to be provided and kept by him for that purpose; which book of registry shall be open to inspection during usual office hours: and the name of no registered boat shall be changed without the written order of the collector, in whose office the same is registered. Collectors to give receipts for registry

Sec. 32. Each collector shall, within one month from the time any boat shall have been registered, or change made in the registry in his office, transmit to each of the other collectors on the same canal, a certified copy of the register of boats in his office, and of the several changes made therein. Further duty of collectors

Sec. 33. If any person residing within this State, claiming to be owners of a registered boat, by transfer from its former owners, shall produce to the collector in whose office the same shall have been registered, due proof of such transfer, and shall deliver him a new certificate of registry, signed by themselves, it shall be the duty of such collector to change the register of such boat, so as to correspond with such new certificate. Registry may be changed

Sec. 34. No clearance shall be granted to any boat unless the collector of whom it is required, shall have evidence that such boat is duly registered; or, if it be not registered, until the master thereof shall have delivered to such collector a proper Clearance, on what evidence granted.

certificate of registry, or have exhibited to him the receipt of some other collector for such certificate.

Registry to designate the owner

Sec. 35. The persons specified in the certificate of registry of any boat, as the owners thereof, shall be deemed in law the true owners thereof, for all purposes of enforcing the collection of tolls, and the execution of the laws, rules and regulations for the navigation or maintenance of the canals.

Registry and name of boat may be changed

Sec. 36. Every owner of a boat who shall change its name from that stated in the certificate of registry then in force, without the written order of the collector in whose office the same shall have been registered; which written order the collector is required to grant, on the application of any owner for that purpose; and every master who shall enter or report such boat, at any collector's office, by a different name from that so stated; shall, for every such offence, forfeit the sum of twenty dollars.

Name of boat to be painted thereon

Sec. 37. No boat shall receive a clearance, nor be permitted to pass on either of the canals, unless such boat shall have the name thereof, and the name of the place where it is owned, corresponding with its certificate of registry then in force, painted in some conspicuous and permanent part of the outside of the boat, in letters of at least four inches in height.

Clearance for each voyage

Sec. 38. No boat or float shall be permitted to pass on either of the canals, unless the master thereof shall first have obtained a clearance therefor, for each voyage of such boat or float, from the proper collector of tolls on such canals; except in the cases hereinafter particularly specified.

Continued
Provide

Sec. 39. Clearances for every voyage shall be required of, and issued by, the collector whose office shall be kept nearest to the place at which the voyage is commenced: *Provided*, That there be any collector's office within one mile of such place.

Clearance continued

Sec. 40. If there be no collector's office within one mile of the place from whence the voyage is commenced, the clearance for such voyage shall be required of the collector at whose office the boat shall first arrive in the course of the voyage; and such boat shall be permitted to proceed from the place where the voyage was commenced to such collector's office, and no further, without a clearance.

Tolls to be paid before cleared

Sec. 41. The full amount of tolls chargeable on each and every article of property which shall be on board of any boat, or constitute any float, or be on board thereof, at the time such boat or float shall depart from the port or place in which there is a collector from whom a clearance is required, shall be paid to such collector before he shall issue a clearance for such boat or float.

Bill of lading to be exhibited and what to contain

Sec. 42. Every master of a boat or float conveying property on either of the canals, shall exhibit to the several collectors hereinafter mentioned, a just and true account, or bill of lading, of such property, signed by himself and by the consignor thereof;

and containing, first, the name of each place on the canal where any portion of such property was shipped, and the place for which it is intended to be cleared, specifying the portion shipped at each of such places, and the portion intended to be cleared to each place; second, a statement of the weight of all articles of such property on which toll is to be charged by the ton, of the number of articles on which toll is charged by the number, and of the feet of each article on which toll is charged by the foot; third, a specification of the weight or quantity of each article or articles, on which one rate of toll is charged, and which is to be transported to one place, separately from other articles on which a different rate of toll is charged, or which is to be transported to a different place.

Sec. 43. Every such account or bill of lading shall be exhibited; first, to every collector of whom a clearance shall be required; second, to every collector whose office shall be next in order in the course of the voyage, to the place where the clearance shall have been granted; third, to every collector at a place where any portion of the cargo shall be unladen, or any additional cargo received; and if there be no collector at such place, to the collector whose office shall be next in order in the course of the voyage; fourth, to every other collector who shall demand such account or bill of lading to be exhibited.

Bill of lading to be exhibited to each collector

Sec. 44. If any property shall be received on board of any boat or other float, for the purpose of being transported on either of the canals, during any voyage after such boat or float shall have left the place at which a clearance for the voyage was granted, an account or bill of lading thereof, conforming to all the requisitions hereinbefore stated, shall be exhibited to the collector whose office shall be next in order in the course of the voyage, to the place where such property was received on board, to whom the full amount of tolls, chargeable on such property, shall be paid; and such boat or float shall not be permitted to proceed on such voyage, beyond the office at which the tolls on such property, so received on board, is payable, until the full amount of such tolls are paid.

Further provision as to bill of lading

Sec. 45. When any cargo shall be taken on board of any boat or float, after such boat or float shall have left the place where a clearance was granted, as specified in the preceding section, the account or bill of lading of such property shall be exhibited to the collector whose office shall be next in order in the course of the voyage, to the office at which the tolls on such additional cargo are required to be paid, and to every other collector who shall demand it to be exhibited.

Bill of lading continued

Sec. 46. If there be no collector's office within one mile of the place where a voyage on the canal shall be commenced, nor within one mile of the place where the same shall terminate, nor at any intermediate place, the master of the boat or other float shall, within ten days after the termination of such voyage, exhibit a true account thereof, and a bill of the lading transported

Bill of lading continued.

on board of such boat or float, at any time during such voyage, to the collector whose office shall be nearest to the place where such voyage terminated, and shall pay to such collector the tolls due on such boat or float and lading; and every master who shall neglect to exhibit such account and bill, and to pay such tolls, within the period above limited, shall, for every such offence, forfeit the sum of twenty-five dollars.

Penalty for refusing to exhibit a bill of lading Sec. 47. Every master of a boat or other float navigating either of the canals, who shall omit to exhibit or deliver a true bill of lading to any collector, or to pay the tolls thereon when required, or shall deliver any article mentioned in a bill of lading at a place beyond that to which such article shall have been cleared, shall forfeit the sum of twenty-five dollars.

Penalty for a false bill Sec. 48. Every person who shall sign or deliver to any collector a false bill of lading, shall pay on all property omitted in such false bill, treble the established rates of toll chargeable thereon, to any collector who shall be satisfied of such omission, for the whole distance such property is conveyed on the canal.

Penalty for signing a false bill of lading Sec. 49. Every person who shall knowingly sign or deliver a false bill of lading, shall be deemed guilty of a misdemeanor; and upon conviction thereof before any court of competent jurisdiction, shall be fined not less than three times the value of the property omitted or falsely stated in such bill.

Collector may require an oath Sec. 50. Every collector receiving a bill of lading, may require the master exhibiting it to verify it by his oath, which such collector is authorized to administer.

Clearance to be had for each boat Sec. 51. Each boat navigating the canals shall have a separate clearance; and no part of the cargo of any boat shall be cleared to a place beyond that to which the boat is cleared.

Clearances continued Sec. 52. No boat or other float shall proceed beyond the place to which it shall be cleared; nor shall any article of its cargo be unladen after its arrival at the place for which such article is cleared, nor proceed beyond such place, until the master thereof shall have delivered the clearance of such boat or float to the collector at the place for which it is cleared, if there be any collector at such place.

Continued Sec. 53. If there be no collector at such place, the master shall deliver the clearance to the last collector whose office shall be passed by the boat in the order of the voyage, and shall receive a permit from such collector, to proceed to the place to which the boat or float is cleared.

Penalty for failing to deliver clearance Sec. 54. Every master who shall omit to deliver a clearance to the collector to whom the same ought to be delivered, shall forfeit the sum of twenty five dollars.

Collectors to give a copy of clearance Sec. 55. Every collector issuing any clearance, or in whose office any clearance is on file, shall, whenever requested, give a certified copy thereof, with the additional cargo entered thereon, and the several indorsements of other collectors; for which he shall be entitled to demand and receive from the person applying for the same, if such certified copy does not contain over

one hundred words, ten cents; and if such copy contains over one hundred words, he shall be entitled to receive pay therefor at the rate of ten cents for every hundred words.

Sec. 56. Such certified copy of any clearance shall have the same validity and effect, as the original clearance of which it is a copy.

Sec. 57. The tonnage of all articles transported on either of the canals, on which toll may be charged by the ton, shall be ascertained and charged according to the real weight of such articles, reckoning twenty net hundreds to make a ton.

Sec. 58. Whenever a difference shall arise between a collector and the master of any boat or float, as to the amount of tolls chargeable on the lading of such boat or float, the collector shall detain the boat or float and the articles on which toll is to be charged, and shall weigh, count or measure the articles, as the case may require: and if it shall be ascertained that the weight, number or feet, exceeds the amount stated in the bill of lading thereof, the collector shall charge tolls according to the weight, number or feet thus found; and the master shall pay to the collector the expense of such weighing, counting or measuring: and such expense shall be chargeable on such articles, and on the boat or float containing them.

Sec. 59. The master of every boat or float shall be liable for the payment of tolls and expenses chargeable on such boat or float and its cargo; and it shall be the duty of every collector to detain all articles on which tolls or expenses are chargeable, and the boat or float containing them, until such tolls and expenses shall be paid.

Sec. 60. If such payment be refused, the collector shall, in the name and on behalf of the State of Ohio, distrain so much of the property detained, as shall be sufficient to satisfy the charges thereon; and at the expiration of ten days, if such charges shall remain unpaid, he shall expose to sale, at public auction, the property distrained, at his usual place of receiving tolls, and sell the same to the highest bidder, between the hours of ten o'clock, A. M. and four o'clock, P. M., having first given two days' notice of such sale, and a description of the property to be sold, by advertisement posted up in three of the most public places in the township in which said collector's office is situated.

Sec. 61. Any surplus avails of such sale, after the payment of the sum chargeable thereon, including costs of distress and sale, shall be paid on demand to the master of the boat or float, or to the owner of the property distrained.

Sec. 62. Every master of a boat shall make out and certify a correct list for every voyage of all passengers over twelve years of age, which are transported on board of such boat for any distance during such voyage; stating therein the name of each passenger, and the distance such passenger is transported, and deliver said list to the collector to whom the clearance of

Fee therefor

Clearance certified

Tonnage regulated

Difference between collector and master as to the amount of tonnage, how regulated

Continued

Collector to distrain property and sell the same

Notice of sale to be given

Surplus to be paid over

Rate of toll per head on passengers

the boat for such voyage is to be delivered: and shall pay to such collector, for each passenger, five mills for every mile such passenger shall have been transported.

Names of the passengers to be registered
 Sec. 63. Such list of passengers shall, at all times during such voyage, exhibit the names of all passengers then on board of the boat, and the distance which each has been transported, or which each is to be transported; and shall be examined by the several collectors to whom the master of the boat is required to exhibit his clearance.

Penalty for neglect
 Sec. 64. Every master of a boat who shall omit in any respect to comply with the requisitions of the two preceding sections, shall, for every such omission, forfeit and pay the sum of ten dollars, in addition to the tolls omitted to be certified; and the boat, and the owners thereof, shall severally be held liable for the payment of all such tolls and penalties.

Collection of penalties regulated
 Sec. 65. Every penalty and forfeiture prescribed by this act, and for which any owner, master, boatman, navigator, or other person having charge of any boat or float, or assisting in the management thereof, when such penalty or forfeiture is incurred, shall be chargeable on such boat or float; and a suit in the name, and on behalf of the State of Ohio, for the recovery thereof, may be brought by any collector, superintendent, acting commissioner, or engineer, before any justice of the peace within the county where such penalty or forfeiture was incurred, or before any other court of competent jurisdiction, against any person being in the possession, or having charge of, such boat or float, at the time such suit is commenced.

Collection continued
 Sec. 66. When any suit shall be prosecuted for any such penalty or forfeiture, the magistrate issuing the process, by a clause to be inserted therein, may direct the officer serving the same, to detain such boat or float, and the furniture and horses belonging thereto, until the suit shall be determined, or until adequate security shall be given for the payment of any judgment that may be recovered.

Further proceedings thereon
 Sec. 67. If such security shall be given, or the defendant in such suit shall prevail, the magistrate shall order the boat or other float and property detained, to be released: but if no such security be given, and a judgment shall be recovered for such penalty or forfeiture, and the same, together with the costs, shall not be immediately paid, an execution shall be forthwith issued, under which the property so detained may be sold, in like manner as if the judgment had been rendered against the owner or owners thereof.

The terms float and master explained
 Sec. 68. The term "float," as used in this act, shall be construed to embrace every boat, vessel, raft, or floating thing, navigated or moved on either of the canals, under the direction of any person or persons having charge thereof: and the term "master," as so used, shall be construed to apply to every person having, for the time, the charge, control, or direction, of any such float.

Sec. 69. The collectors of tolls shall keep accounts of all ^{State auditor to} tolls received by them, in such form as shall be prescribed, ^{prescribe forms} from time to time, by the auditor of State; and shall deposit ^{for keeping ac} the original books of accounts, together with such clearances ^{counts of tolls} and other papers as he shall require, in the auditor's office, on or before the tenth day of December, in each year.

Sec. 70. Each collector shall make abstracts from such ^{Collector to} books, showing the amount of tolls received by him each day, ^{transmit lists to} and transmit the same, by mail, to the auditor, once in each ^{the State auditor} month, and as often as the auditor shall require, if he shall ^{monthly} think proper to require such abstracts more frequently than once in each month.

Sec. 71. Each collector shall deposit, at least once in each ^{Collectors to de} month, to the credit of the treasurer of State, in such bank as ^{posit tolls in} may, from time to time, be designated by the treasurer, all ^{bank monthly} moneys received by such collector, for tolls, penalties, and forfeitures, after deducting therefrom such portion of his salary as shall then be due, and such incidental expenses as shall have been allowed by the auditor; for which duplicate receipts or certificates of deposit shall be taken, one of which shall, without delay, be transmitted by mail to the auditor of State, who shall charge the same to the treasurer, and credit the amount to the canal fund.

Sec. 72. If any collector of tolls shall omit to transmit any ^{Penalty for de} abstract or certificate of deposit, or to deposit in the office of ^{fault} the auditor of State, any original book of account, clearance, or other paper, as required by the preceding sections, for the space of one month after the same should have been done, the auditor shall immediately notify the president of the board of canal commissioners, of such omission, and such collector shall be immediately removed from office; and the auditor shall immediately cause suit to be instituted against such collector and his sureties, on the bond of such collector.

Sec. 73. If any collector of tolls shall neglect to deposit, ^{Penalty how} according to law and the directions of the auditor, the moneys ^{collected} that from the abstracts transmitted to the auditor, shall appear to be due from such collector, the auditor may issue a warrant under his hand and seal, directed to the sheriff of any county where such collector, or any of his securities, may be found, thereby commanding such sheriff, in the name and on behalf of the State of Ohio, to cause the amount appearing to be due from such collector, to be levied and made of the goods, chattels, lands and tenements of such collector; and in case the same shall be insufficient, then of the goods and chattels, lands and tenements, of the sureties of such collector: and to return the money, together with the warrant, and his doings thereon, to the auditor, within sixty days from the date thereof.

Sec. 74. The sheriff to whom any such warrant shall be ^{Duty of the she-} directed, shall immediately cause the same to be executed; ^{riff in collecting} and may demand and collect the same fees for executing the

same, as are allowed by law for the service of executions, issuing from the courts of common pleas of this State.

State auditor to
keep accounts of
collectors

Sec. 75. That the auditor of State shall open and keep a correct account with each collector of tolls, in a book to be provided and kept by him for that purpose: and for the purpose of making out such account, shall carefully examine and compare the books, abstracts, and other papers, returned by each collector; and shall also compare the same with the abstracts and papers returned by the other collectors, which may furnish a corresponding account of any items contained in such abstracts.

Canal commis-
sioners to fur-
nish the names
of collectors

Sec. 76. That it shall be the duty of the canal commissioners to furnish the auditor with a statement, exhibiting the names of the several collectors of tolls, and of the place where each is to keep his office; the amount allowed to each collector for his salary, office rent, or any other allowance authorized by the board; and of all changes from time to time, made in the foregoing particulars: and to deposit in his office all bonds given by collectors, for the purpose of enabling the auditor to comply with the requisitions of the foregoing sections.

Costs on suits
by whom paid

Sec. 77. That if any collector, superintendent, acting commissioner, engineer, or other person, shall commence any suit, or institute any other proceeding under the provisions of this act, and judgment shall be rendered for the defendant, in such suit or other proceeding, or discontinued without the consent of the parties; such collector, superintendent, acting commissioner, engineer or other person, commencing such suit or other proceeding, shall be liable to the defendant or any other person interested therein, for all costs, hindrance, delay, and other damages sustained thereby; to be recovered by action on the case, in any court of competent jurisdiction, unless the court or jury, as the case may be, shall be satisfied by evidence produced by the defendant in the action brought for the recovery of such damages, that there was probable cause for commencing and carrying on such former suit or other proceeding.

Appeals allowed
to common
pleas

Sec. 78. That in all prosecutions and proceedings, under this act, it shall be lawful for either party to appeal to the court of common pleas of the proper county, upon the same conditions, and in the same manner, as appeals are allowed by law in civil cases cognizable by justices of the peace.

THOMAS L. HAMER,

Speaker of the House of Representatives.

ROBERT LUCAS,

Speaker of the Senate.

February 23, 1830.

AN ACT supplementary to the act to regulate the navigation and collection of tolls on the canals of this State.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That every boat navigating upon either of the canals of this State, shall, by means of a guard or plate of iron, firmly attached to the keel and extending back under the rudder, or by means of some other permanent device, cover and secure the opening between the keel or stern post, and the rudder; so as effectually to prevent the towing line of any other boat from entering said opening. The opening between stern post and rudder of canal boats, how secured

Sec. 2. That it shall be unlawful for any boat, having any bolt, spike, nail, hook, or other instrument, or any end of any wale, plank, timber, board or pin, projecting from the bottom or side thereof, in such a manner as to be liable to injure any other boat, or the towing line thereof, or any work or device appertaining to the canal, to navigate on either of the canals of this State; and every master, owner, or part owner, of any boat violating either of the provisions of this or the preceding section, shall, for every such offence, forfeit and pay the sum of ten dollars, and moreover be liable for all damages occasioned by such violation. No boat to navigate the canals with any bolt, spike, &c. projecting from the side or bottom

Sec. 3. That in no case shall the stern or bow of any boat or float, approaching or being about to enter, or having entered, any lock, be permitted to run against, or strike the head walls, or either of the gates of such lock, willfully or negligently; and for every violation of either of the provisions of this section, the master of such boat or float shall forfeit and pay the sum of one dollar, and moreover be liable for all damages occasioned by such violation. Penalty for violating

Sec. 4. That whenever any dispute shall arise concerning berths, places of mooring, or of lading or unlading, of any two or more boats or floats, at any public landing place or basin, or at any other place on either of the canals, except at a wharf or landing place which is private property, it shall be the duty of the collector, and if there be no collector present, of any superintendent, to assign berths or places to all such boats or floats; and the master of every such boat or float, failing to comply immediately with such assignment of the collector or superintendent, shall forfeit and pay the sum of five dollars, and moreover be liable for all damages sustained by any individual in consequence of such failure. Penalty for permitting bow of boat to strike head walls or gates of a lock

Sec. 5. That all tolls chargeable on any boat or float, for any voyage about to be made on either of the canals of this State, shall be paid to the collector who is required to issue a clearance for such voyage, before such clearance shall be issued. Disputes concerning place of mooring at public landing, how determined

Sec. 6. That any collector from whom is required a clearance, agreeably to the thirty-ninth and fortieth sections of the act to which this is a supplement, may issue a permit instead of a clearance, as required by said act: *Provided*, The voyage Tolls to be paid before clearance issued

for which such permit shall be issued, shall not extend to, nor within a mile of any place on the canal where there is a collector's office.

Where tolls shall be paid when voyage commences more than a mile from collector's office

Sec. 7. That in all cases where a boat or float shall commence a voyage at any place more than one mile distant from any collector's office, and which voyage shall terminate at any place at which, or within a mile of which, there is a collector's office; all tolls chargeable on such boat, float, and cargo on board thereof, shall be paid to the collector at or near whose office such voyage terminates: and a permit shall be obtained from such collector for unloading, before any part of the cargo of such boat or float, or any article composing any such float, shall be unladen, landed or removed from the canal: and for every violation of any of the provisions of this section, the master of such boat or float shall forfeit and pay the sum of five dollars, and also double tolls on every article so unlawfully landed, removed or unladen; for the payment of which penalties and tolls, such articles, and also every owner or part owner of any such boat, float or article, shall be liable.

Collector to enter in a book a certificate from bill of lading, which shall be signed by master of boat, and sworn to if required

Sec. 8. That it shall be the duty of [every] collector, to whom bills of lading are required to be presented, in order to obtain a clearance for any voyage, agreeably to the forty-second and forty-third sections of the act to which this is a supplement, to make out from such bill or bills of lading, on a book to be provided by him for that purpose, a certificate containing a pertinent description of the articles composing the cargo of the boat or float, or composing such float, for which clearance is about to be issued, properly classified and designated with reference to the rates and amount of tolls chargeable thereon; which certificate shall be signed by the master of such boat or float, who shall also attest on oath or affirmation to the correctness thereof, if required by the collector, before the clearance for such boat or float shall be issued.

Property received on board after clearance issued, to be entered in like manner at next collector's office

Sec. 9. That in case any property, not contained in the certificate prescribed in the preceding section, shall be received on board of any boat after clearance for the same shall have been issued, the collector whose office shall be next in order in the course of the voyage, to the place where such property was received on board, shall make out a certificate of all such property on a book, to be provided by him for that purpose, conformably to the requisitions of the preceding section, which shall be signed, and, if the collector shall require, be attested, by the master of such boat or float, on oath or affirmation.

Penalty for non-compliance with two preceding sections

Sec. 10. That every master of any boat or float, who shall in any respect refuse to comply with the requirements of the two preceding sections, or who shall sign a false certificate, shall, for every such refusal or offence, forfeit the sum of twenty-five dollars.

List of articles named in

Sec. 11. That in every case where a certificate is required to be made out and signed, agreeably to the provisions of the

eight and ninth sections of this act, the collector shall enter ^{certificate,} upon the clearance a correct list or statement of all articles of ^{and amount} lading contained in such certificate, properly classified and de- ^{of tolls, to be} signated, with the amount of tolls charged and received there- ^{entered in} on, and shall sign his name thereto. ^{clearance}

Sec. 12. That lists of passengers, required by the sixty- ^{What shall be} second and sixty third sections of the act to which this is a sup- ^{set forth in} plement, shall in all cases exhibit distinctly and legibly written ^{the list of pas-} with ink, in separate columns to be provided for the purpose; ^{sengers} first, the name of each passenger of twelve years old or up- wards, on board of the boat at the time of the arrival thereof at any place where there is a collector's office, or who shall have been transported for any distance on board thereof, dur- ing the voyage; second, the name of the place, or the distance from some place of notoriety on the canal, where such passen- ger came on board; third, the place to which such person may have taken passage; fourth, the place where such passage actu- ally ended, if at a place different from that to which passage ^{List to be at-} was taken: which list shall in all cases be attached to the ^{tached to} clearance of the boat, and with the clearance, be delivered to ^{clearance} the collector to whom the clearance is required to be delivered.

Sec. 13. That every person who shall go on board of any ^{Who shall be} boat for the purpose of being transported from one place to ^{considered} another, shall be considered a passenger; whether any price ^{passengers} may be demanded for the transportation of such person or not, and whether he may pay for his passage in money, in labor, or otherwise.

Sec. 14. That on the arrival of any boat or float at the ^{Exhibition of} place of destination, or at any place in the course of the voy- ^{bills of lading} age where there is a collector's office, if in the day time, the master thereof shall immediately present to the collector the bill or bills of lading, as required by the forty-third, forty-fourth and forty-fifth sections of the act to which this is a supplement, together with the clearance and list of passengers; and if such boat or float shall arrive in the night time, the same shall be presented between the time of arrival and one hour after sun- rise.

Sec. 15. That no boat or float shall proceed on its voyage ^{Boat not to} until the bill or bills of all articles of lading on board thereof, ^{proceed until} or composing such float, together with the clearance and list of ^{papers are pre-} passengers, shall have been presented to the collector, as pro- ^{sented to col-} vided in the preceding section; nor until all necessary exami- ^{lector, cargo} nations and comparisons of such bills of lading, clearance and ^{examined,} cargo, shall have been made, nor until all tolls chargeable on ^{tolls paid, &c} such boat, float or cargo, payable at such office, shall have been paid, and the necessary certificate of additional cargo, if any, shall have been signed, and, if required by the collector, at- tested on oath or affirmation: and the collector may detain both ^{Collector may} the bills of lading and clearance until the necessary entries shall ^{detain papers} be made on such clearance, and until all the requisitions of this ^{till comply-} section shall be complied with. ^{ance}

Sec. 16. That in case any boat or float shall depart from any place where there is a collector's office, without a clearance or permit, or shall pass by any place where there is a collector's office, without first having complied with each and every provision of the preceding section; the master thereof shall, in each case, forfeit and pay the sum of ten dollars, together with double tolls on all articles on which tolls were payable at such office.

Sec. 17. That no part of the cargo of any boat or float, nor any article composing such float or any part thereof, shall be unladen, landed or removed from the canal, at the termination of any voyage on such canal, nor at any place on the canal within one mile of a collector's office, until the clearance, together with the bill or bills of lading of the whole cargo of such boat or float shall have been presented to the proper collector, and a permit obtained from such collector for such unloading, landing or removal; which permit such collector is hereby required to grant after a reasonable time shall have elapsed for the examination of such clearance, bills of lading, and cargo, and on the payment of all tolls which shall remain due: and for every violation of any provision of this section, the master of such boat or float shall forfeit and pay the sum of ten dollars, and also double the amount of tolls chargeable on the article or articles so unlawfully landed, removed or unladen: *Provided*, That in all cases where any boat shall be in a leaky condition, or from any other cause, goods or property on board any such boat shall be in danger of damage or perishing by delay, and the proper collector cannot be found, such goods or property may be landed and secured until such collector may be found, and a permit obtained for the further removal of the same.

Sec. 18. That in any case where any boat or float shall navigate, or attempt to navigate, on either of the canals of this State, without being legally authorized so to do, it shall be the duty of every lock tender, superintendent, or other authorized agent of the State, on being notified thereof, to stop and detain such boat or float, until the same shall be legally authorized to proceed.

Sec. 19. That for the purpose of ascertaining whether any boat or float which shall be found navigating on a canal of this State is authorized so to do, it shall be the duty of the master thereof to exhibit to the lock tender at the first lock at which such boat or float shall arrive, after having departed from, or passed by any place at which there is a collector's office, the clearance of such boat or float; and if there be no lock tender at such lock, then the same shall be exhibited to the first lock tender or superintendent who shall be passed in the order of the voyage from such collector's office, and who shall demand to see such clearance: and if the clearance shall not be so exhibited, such lock tender or superintendent shall stop such boat or float from proceeding further on the canal, until the same shall be legally authorized so to do.

Sec. 20. That it shall be the duty of every collector to whom any list of passengers is required to be delivered, at or near the termination of any voyage on either of the canals of this State, to examine, on oath or affirmation, (which oath or affirmation such collector is hereby authorized to administer) the master of the boat, as to the correctness of every such list: and if any master of a boat shall refuse to answer any proper question of such collector, relating to the correctness of such list, or the amount of tolls payable on passengers for such voyage, he shall, for every such refusal, forfeit and pay the sum of ten dollars, together with double toll on passengers transported during such voyage, and whose names he shall have omitted to enter on such list.

Sec. 21. That it shall be the duty of every collector with whom the clearance for any voyage on either of the canals is required to be deposited, carefully to examine and compare the same with the bill or bills of lading, and also with the cargo; to revise the charges and calculations of tolls entered thereon; to correct and note thereon all errors which may be discovered: and if he shall find that the amount of tolls received agreeably to such clearance, falls short of the proper sum, he shall receive and account for the balance, as in other cases of tolls received; and if he shall find that the amount of tolls actually paid on said clearance exceeds the correct amount, he shall refund to the master the excess; for which he shall take the master's receipt, and charge the same in the proper account.

Sec. 22. That all boats, floats, or other property of the United States, shall be permitted to navigate, or be transported on either of the canals of this State, free from the payment of tolls: *Provided*, Satisfactory proof be made to the proper collector that the same is bona fide the property of the United States; but all such boats, floats or other property, shall be reported, cleared, and in all other respects be subject to all and singular the rules, regulations, provisions, and forfeitures and liabilities, prescribed by the laws of this State, or the orders of the board of canal commissioners in accordance therewith.

Sec. 23. That any collector may examine, on oath or affirmation, the master of any boat or float, for which exemption from the payment of tolls is claimed under the provisions of the preceding section, and the master of any boat or float, on board of which is transported any property for which such exemption is claimed, as to the ownership of such boat, float or other property; and if he shall refuse to answer such proper questions as may be propounded by such collector in relation to such ownership, or if from his answers, the collector shall not be satisfied that the boat, float, or property in question, is the property of the United States, tolls shall be charged and paid thereon, as in other cases.

Sec. 24. That every owner and part owner of any boat or float, and also such boat or float, shall be severally liable for the payment of all penalties and forfeitures incurred by the master

incurred by thereof, or by any boatman or other person assisting in the navigation or management of such boat or float, and also for the payment of all tolls chargeable thereon, or chargeable on any property or passengers transported on board thereof.

Sec. 25. That all penalties, forfeitures and liabilities incurred under the provisions of this act, shall be sued for, prosecuted and recovered, paid over and accounted for, in the same manner as is provided by the act to which this is a supplement, in cases of penalties, forfeitures and liabilities incurred under the provisions of said act; and either party may appeal to the court of common pleas as provided in said act.

Forfeitures
how recovered
and appropriated.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 10, 1831.

AN ACT to provide for the purchase of water privileges.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That where any feeder to either of the canals of this State, from any stream which is not navigable and a public highway, has been constructed, or may hereafter be constructed, at the expense of the State, by which a greater quantity of water may be introduced than is required for the purposes of navigation, thereby creating valuable hydraulic privileges, either on said feeder or on the canal receiving water therefrom; and where the introduction of such additional quantity of water will injure mills or mill sites on such stream, between the point where the water is to be taken out, and the point at which it is to be returned into such stream; the canal commissioners shall be authorized to purchase for, and on behalf of the State, any such mill or mill site so liable to be injured, or the right to take from such stream such additional quantity of water, as either may be deemed best for the interest of the State: *Provided*, The sum to be paid for such mill, mill site or privilege, shall in no case exceed two thirds of the sum for which the commissioners shall have ascertained the hydraulic privileges, to be supplied by such additional quantity of water, can be sold: or said commissioners may, at their option, convey to any owners of any mill or mill site, so liable to be injured as aforesaid, a part of the water power to be created as aforesaid, as a compensation for the damages sustained by the taking such additional quantity of water from such stream.

Canal commissioners authorized to purchase mill or mill site, liable to be injured by the introduction of water into the canals or feeders, for hydraulic purposes

Proviso as to the sum to be paid

May convey a part of water power as a compensation

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 8, 1831.

AN ACT prescribing the duties of canal fund commissioners, or their agents, in transfer of Ohio canal stocks, standing in the names of deceased persons.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the commissioners of the canal fund, or their agent or agents, duly authorized and constituted by the said commissioners, are hereby authorized to permit transfers of all, or any Ohio canal stocks, standing in the name of any person or persons, who have died, or may hereafter die, to be made by the executor or executors, administrator or administrators, of such deceased person or persons; he or they, having first exhibited to the said commissioners, agent or agents, full proof of their representative character, by the exhibition of letters testamentary, or letters of administration, properly authenticated, according to the laws of the State, territory, district or government, where said testator or intestate died, and said letters testamentary or letters of administration, were granted and taken out.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

January 31, 1831.

AN ACT creating the office of County Surveyor, and defining his duties.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be elected by the qualified electors in each organized county within this State, on the second Tuesday of October next after the term of service of those now in office shall expire, and on the second Tuesday of October triennially thereafter, one county surveyor, who shall hold his office for the term of three years, if he so long behave well, and until his successor be elected and qualified; and the clerk of the court of common pleas shall forthwith certify the result of such election under his official seal, to the governor, who shall thereupon grant a commission to the person so elected.

Sec. 2. That no person holding the office of associate judge, clerk of the court, sheriff, county treasurer or recorder, shall be elected to the office of county surveyor: *Provided,* That each and every county surveyor, who may be in office at the time this act shall take effect, shall continue to do and perform, all and singular, the duties required of him by this act, until his term of office shall expire, and until his successor may be elected and qualified.

Sec. 3. That whenever the office of county surveyor shall become vacant, either by death, resignation or otherwise, the court of common pleas next to be holden for the county where

such vacancy may happen, shall appoint a person well qualified to discharge the duties of said office; who shall hold such appointment until the next October election, and until his successor is elected and qualified.

Surveyor to take an oath and give bond Sec. 4. That the person appointed surveyor, under the provisions of this act, shall forthwith, after the receipt of his commission, take an oath or affirmation, before the clerk of the court of common pleas, to be certified on the commission, that he will faithfully, impartially, and to the best of his skill and abilities, discharge the duties of county surveyor; and he shall also give bond in the penal sum of two thousand dollars, payable to the State of Ohio, with at least two such freehold securities, as the clerk shall deem sufficient for the use of all persons concerned, to whom any damages may accrue, through the negligence or misconduct of such surveyor, or his deputies, conditioned for the true and faithful performance of the several duties of a county surveyor, as prescribed by law: which bond the said clerk shall file in his office.

Surveyor may appoint deputies Sec. 5. That each county surveyor, after being duly qualified, as provided in the foregoing section, may appoint such number of deputy surveyors under him, not exceeding three, as he may think proper, being responsible for the correctness of their official acts; which deputies shall respectively, before they enter on the duties of their office, take a similar oath or affirmation to that required of the county surveyor: and all official duties performed, and surveys made, by a deputy surveyor, shall be signed by him officially, and countersigned by the county surveyor, and shall be as good and valid in law and equity, in every respect, as if the same had been done by the county surveyor.

Deputies to be sworn

Surveys made by deputy to be countersigned

Person injured may sue on the bond Sec. 6. That any person who may think himself injured, by the neglect or misconduct of any county surveyor, or any of his deputies, may institute a suit on any certified copy of the bond executed by any such county surveyor, and his sureties, in the name of the State of Ohio, for the use of the person suing: and in case the party for whose benefit such suit may be brought, shall obtain a judgment for any damage or loss by him sustained, he may sue out an execution on said judgment as in other cases: and the bond aforesaid shall not become void on the first, or any subsequent recovery, but may be subject to be sued on in like manner, by each and every person who may think himself aggrieved, by a breach of the condition of such bond.

Surveyor may take testimony Sec. 7. That when any county surveyor, or his deputy, may be called upon to make any survey or surveys, which is, or are to be offered in evidence, in any court of law or equity, (the adverse party having notice of the time of making such survey or surveys,) such county surveyor or deputy, is hereby authorized and required, upon application of either party, to administer an oath or affirmation to any witness, who may be

brought to prove any corner or line of such survey or surveys, or of any natural or artificial object or mark, which may be necessary to identify the same: which testimony shall be reduced to writing, and subscribed by the witness or witnesses, and return made thereof to the court, with the return of the survey.

Sec. 8. That all calculations to ascertain the contents of a tract of land, by the county surveyor, or other person or persons, who may at any time be called on by the court to execute a survey, shall be made by latitude and departure; and on each plat, the county surveyor, or the person or persons called on by the court, as aforesaid, shall lay down the variation of the magnetic needle from the original course of such survey.

Calculations to be made by latitude and departure

Sec. 9. That when any tract of land may be situated in any two or more counties, or if the beginning of the entry or survey, on which such tract of land may depend, shall be in a different county from that in which part of such tracts of land may be, it shall be competent for the court in either of said counties to take cognizance of any controversy relative to such land, and issue an order of survey to the county surveyor of any one of said counties, who shall survey such tract of land, and run and lay down any entry or survey, line or lines, which may be necessary to establish the same.

When land in controversy lies in two or more counties how proceedings may be had

Sec. 10. That if any county surveyor, or deputy surveyor, shall be molested or prevented from doing or performing any of his official duties, by means of the threats or improper interference of any person or persons, such surveyor shall call on the sheriff of the county, who shall accompany him and remove all force: and the person or persons thus threatening, or improperly interfering with any surveyor, whilst performing his official duties, shall be subject to prosecution by indictment, and on conviction thereof, shall be fined in a sum not exceeding one hundred dollars, at the discretion of the court; and moreover, be liable for all damages by any person sustained, by the hindrance of the surveyor, and also, for all expenses and costs that may accrue in consequence of the attendance of the sheriff.

Surveyor, when molested, may call on sheriff to remove all force
Persons molesting surveyor, how punished

Sec. 11. That the county surveyor or his deputies, shall survey all lands which have been, or may hereafter be sold for taxes, which lie within his county, on the application of any person producing to him a certificate from the proper officer, agreeably to law.

To survey lands sold for taxes

Sec. 12. That no resurvey hereafter made, by any person except the county surveyor or his deputy, shall be considered as legal testimony, in any court of law or equity in this State, except such surveys are made by mutual consent, reduced to writing, and signed by the parties.

Surveys not testimony unless made by county surveyor or consent of parties

Sec. 13. That when it shall appear that the county surveyor is interested in any survey, the title of which is disputed

County not being

Interested, court
may appoint per-
son to make sur-
vey

before the court, or if the county surveyor is not commissioned and qualified, the court shall direct the resurvey to be made by some capable person, who is in no wise interested, who shall return the said resurvey to the court, on oath or affirmation:

Provided

Provided, That no survey made by the county surveyor or his deputy, shall be considered legal testimony except such survey has been made by order of the court of common pleas, or of the supreme court; or that it has been made agreeably to the provisions of the preceding sections of this act, or by the consent of parties, as herein provided: and none but such surveys shall be considered officially made.

Surveyor to keep
a record of sur-
veys, and fur-
nish copies

Sec. 14. That the surveyor of each county shall keep a fair and accurate record of all official surveys, and the calculations of the contents of such surveys, made by himself or his deputies, in a suitable book or books, to be by him kept for that purpose: he shall number his surveys progressively; and a copy of any survey, shall be furnished by the surveyor to any person requiring the same, on his paying therefor the fees hereinafter directed.

To employ disin-
terested chain
men, who shall
be sworn

Sec. 15. That it shall be the duty of each county surveyor, and deputy surveyor, to employ disinterested persons to act as chain men; and each chain man employed by the county surveyor, or his deputies, shall, before he commences the duty assigned him, take an oath or affirmation faithfully and impartially to execute the duty of chain man; which oath or affirmation, the county surveyor, or his deputies, are hereby authorized and required to administer: and that the expense of the chain carriers and markers shall be paid in advance, if required, to the county surveyor or his deputies, by the party on whose application the survey may be made; and the money so advanced, shall be accounted for by the surveyor, and the amount expended to be taxed in the bill of costs: *Provided*, That there shall not be allowed to any chain man or marker a greater sum than seventy-five cents for each day he may be actually employed: *Provided also*, That each surveyor shall have the right to retain the return of any survey by him made, until he shall be paid the fees allowed by this act; and shall also have the right to collect such fees by suit, if the return of survey is not called for.

Chainmen and
markers to be
paid in advance,
if required

Their fees

Court may dis-
miss surveyor &
fill the vacancy

Sec. 16. That if it shall be made to appear to the court, that any county surveyor, for the time being, is incapable of performing all and singular the duties enjoined on him by law, or that he has neglected or refused to do and perform any official act he may be required to do, (unless prevented by unavoidable accident) the court shall dismiss such county surveyor from office, and forthwith appoint a successor to fill such vacancy.

Proceedings in re-
lation to the re-
moval of a sur-
veyor

Sec. 17. That any person wishing to have a county surveyor removed from office, shall file in the office of the clerk of the court of common pleas of the proper county, at least thirty days before

the sitting of such court, a petition, setting forth the cause of complaint, whether it relates to incapacity, misconduct in office, or neglect of duty; and the clerk shall forthwith make out a certified copy of such petition, and also a summons, directed to the sheriff, requiring him within ten days thereafter to notify such surveyor, (either by reading such summons to him, or leaving a certified copy thereof at his last place of residence.) to appear at the next court of common pleas, on the first day of the term, to answer said complaint; and the sheriff shall, at the same time, leave with such surveyor, at his residence aforesaid, a copy of the said petition: and it shall be competent for such court, on the first day of the term, or as soon thereafter as the parties may be ready, to hear such complaint, the answer thereto, the proof in support thereof, and decree as may seem just and proper.

Sec. 18. That the court before whom such complaint may be ^{Costs by whom} tried, shall render judgment for costs against such petitioner, if ^{paid} the respondent shall be acquitted, and against the respondent, if he shall be found guilty.

Sec. 19. That it shall, and may be lawful, for any surveyor ^{Books to be deli-} who shall be elected under this act, to ask, demand, and receive ^{vered to succe-} of his predecessor, any book or books relating to said office, in ^{or} which it is by law made the duty of such surveyor, to record all surveys, and calculations of the contents of surveys, made by himself or deputies; and whenever said office shall become vacant, either by death, resignation or otherwise, it shall be the duty of any person or persons, having the possession of such books and records, to hand the same over, on demand, to his successor in office.

Sec. 20. That it shall and may be lawful, for such surveyor, or ^{The value of the} his legal representative, whose duty it is hereby made to hand over ^{books to be paid} the books and records, to ask, demand, and receive, of the com- ^{out of county} missioners of the proper county, an order on their county treas- ^{treasury} ury, for such sum as the commissioners shall believe to be the value of the books and records aforesaid, in their blank state, which have been purchased by such surveyor at his own expense; which sum shall be paid to such surveyor, or his legal representative, out of the county treasury of such county: and if the surveyor, ^{Penalty for re-} or his legal representative, whose duty it is hereby made to hand ^{fusing to hand} over the books and records aforesaid, shall neglect or refuse to ^{over books, and} do the same, as required by this act, he shall, for every such of- ^{how recovered} fence, forfeit and pay a sum not exceeding five hundred dollars; to be recovered by action of debt, at the suit of his successor in office, before any court having jurisdiction thereof; which shall, when collected, be paid into the county treasury, to and for the use of the county.

Sec. 21. That the several county surveyors who now are, or ^{Fees of surveyor} hereafter may be appointed or elected to that office, may demand and receive for their services, the following fees, viz: For each survey, when the lines do not exceed one mile, the sum of two

dollars; and for each mile he may run in addition thereto, the sum of fifty cents: for making out and certifying an original connected plat of the number of surveys or entries, twelve and a half cents, for each survey or entry laid down on the same: for every certified copy of a connected plat, six and a fourth cents, for each survey or entry laid down on the same: for making out a plat and certificate of survey, fifty cents; recording the same, thirty-seven and a half cents; for a copy thereof, twenty five cents: for making out a calculation of the contents of a tract of land, here there are not more than four lines to the same, fifty cents; and when the number of lines exceed four, and do not exceed ten, seventy-five cents; and when the number of lines exceed ten, one dollar: and for every mile he shall travel from his place of residence, in going to, and returning from, the tract of land he may be called upon to survey, by the customary rout, six and a fourth cents: *Provided*, That all expenses of chain carriers, markers, &c. shall be paid by the person at whose request the survey is made.

Proviso

To procure plats and field notes from office of surveyor general

Sec. 22. That it shall be the duty of the county surveyor, in each county in this State, when directed by the commissioners of his county, to procure from the surveyor general's office a certified plat, together with the field notes of the corners, and bearing trees to each section, quarter section, lot, or original survey in his county, and cause the same to be preserved in a book by him provided for that purpose; which shall be deposited in the county auditor's office, for the use of the landholders in said county: a certified copy from said book by the auditor, shall be received as prima facie evidence, where the original would have been received.

Expense to be paid out of county treasury

Sec. 23. That the expenses incurred, by reason of the provisions of the twenty-second section of this act, shall be paid out of the county treasury of the respective counties, on the order of the county auditor.

Election and contest, how conducted

Sec. 24. That the election of county surveyor shall be in conformity to the laws of this State regulating elections; and if the same shall be contested, the contest shall be conducted, in all respects, and decided in the same manner, as contested elections for sheriff or coroner.

Acts repealed

Sec. 25. That the act, entitled "An act creating the office of county surveyor, and defining his duties," passed January twenty sixth, eighteen hundred and twenty; and the act, entitled "An act authorizing county surveyors to obtain copies of the field notes of the original corners of land in their respective counties," passed February eleventh, eighteen hundred and twenty-eight; be, and the same are hereby repealed: *Provided*, That the repeal of the above mentioned acts, shall not, in any wise, discharge or exonerate any county surveyor from the liability he may have incurred, by reason of the breach of the condition of the bond or bonds he may have given, or from any penalty he may be subjected to, under, and by force of the same.

Proviso

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

March 3, 1831. . SAMUEL R. MILLER,
Speaker of the Senate.

AN ACT to enable the holders of land within this State to perpetuate testimony relative to their lands.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for any person or persons, their agent or attorney, owning or being interested in any tract or tracts of land within this State, any corner or corners of which shall or may be in a decayed or perishable condition, to call on the surveyor of the county where the land lies, to make a survey thereof, and cause to be planted at each of such decayed corners, a stone or post, noting particularly the situation and condition of the original corner trees, called for in the original survey, and also of all the places of notoriety, over or by which the lines of said survey may pass; and the surveyor shall make out a plat, and certificate of such survey, under his hand, noting the names of the chain men, marker, and other persons present, at the planting of any corner stone or post, as aforesaid, and noting also the variation from the original lines, at the time of making such survey.

Owners of land may call surveyor, and plant corners

Sec. 2. That when the corner or corners of any such survey shall have been or may hereafter be destroyed, it shall and may be lawful for the owner or owners, their agent or attorney, of any such survey or other lands, the title of which may be affected by the loss of such corner, to call on the surveyor of the county in which the land may be situated, whose duty it shall be to attend on the ground where it is intended to establish such corner or corners, at such time as the applicant shall appoint; and the said surveyor is hereby authorized and required to issue his warrant, directed to any constable or other fit person to execute the same, to cause to come before him such witness or witnesses, as well without as within his county, as the person demanding such warrant, or other person interested, may require; and said surveyor is hereby authorized to examine said witness or witnesses on oath or affirmation, touching the existence and situation of such corner or corners, or any other matter in relation to the entry or survey of such land, and take the same in writing, which shall be signed by the deponent or deponents, and certified and signed by the surveyor: and in making a survey of the land, and planting stones or posts at the corners, agreeably to the first section of this act, the surveyor shall have reference to, and be governed by the depo-

Surveyor may issue warrant for witnesses

Stones may be planted

Notice

sition or depositions so as aforesaid taken, and shall specify the same in his certificate of survey, in which shall also be mentioned the names of the persons present at the planting of any corner stone or post as aforesaid: *Provided*, That no person who resides without the county where said depositions are to be taken, shall be bound to attend, unless his traveling fees, both going and returning, and for one day's attendance, shall have been tendered him; nor shall any witness attending from without the county, be obliged to attend more than one day, unless additional fees for such attendance shall be tendered.

*Notice to whom
and how given*

Sec. 3. That previous to taking any depositions as aforesaid, notice shall be given at least twenty days to the owner or owners, their agent or attorney, if known, who have adjoining lands; and if the owner or owners, their agent or attorney, are not known, or reside out of the State, the applicant shall, in some public newspaper, printed in the county where the land lies, if any such be printed therein, if not, in a newspaper printed within the State, and nearest the land to be surveyed, give notice of his intention to take depositions at a certain time and place, by advertisement inserted for six weeks successively in said paper, the last insertion of which, shall be twenty days previous to the time of taking such depositions; in which notice, a description of the adjoining lands shall be given; evidence of which notice shall be produced to the surveyor, previous to his taking any depositions as aforesaid: and the said surveyor shall return with his proceedings the original notices, which shall be in writing, with the evidence of their having been served, and a copy of the advertisement, if any, with the evidence that the same has been published, and which shall be recorded with the said survey and depositions.

*Shall be returned
with plat &c.*

*Surveyor to
make record
of plat &c.*

*Which shall be
recorded*

Sec. 4. That any county surveyor, making surveys under the provisions of this act, shall record the plat and certificate thereof, in a book kept by him for the purpose of recording surveys, and deliver the original, with any depositions taken, as provided for in this act, to the recorder of the county, who shall record all such plats and certificates, and depositions, with the notices and advertisements, if any, with the evidence in relation thereto, in a book, to be provided by him for that purpose, and shall, on demand, deliver the originals to the person at whose instance such survey was made, or depositions taken.

*Plat or copy,
evidence*

Sec. 5. That the plat and certificate of any county surveyor, made, or depositions taken, agreeably to the provisions of this act, or a certified copy thereof, from the recorder's office, shall be good evidence in any court of law or equity within this State, in any cause wherein the title of any land to which they may apply, may be affected: *Provided*, That the depositions of witnesses recorded as aforesaid, shall only be received when the witnesses are dead, or without the jurisdiction of the court.

Sec. 6. That county surveyors shall receive for services performed under this act, at the rate of two dollars per day;

and for making out and recording plats and certificates, the ~~same~~ ^{Fees, and not} same fees that are allowed for similar services in other cases; ^{paid.} chain men and markers shall be allowed seventy-five cents each, per day; and each witness seventy-five cents per day: and if said witness reside out of the county in which such corner or corners may be situate, and which he is summoned to establish by his testimony, such witness shall be allowed the sum of one dollar for every twenty-five miles he may be required to travel, in going from and returning to his place of residence; and recorders the same fees as are allowed for similar services in other cases: all of which expenses shall be paid by the person or persons applying for such survey and depositions; who may recover from the persons owning the adjoining land, that may be benefited by the perpetuation of such testimony, their equal proportion of the expense incurred in obtaining such evidence.

Sec. 7. That the act to enable the holders of land within this State, to perpetuate testimony relative to their lands, passed twenty-fifth of January, one thousand eight hundred and nineteen, be, and the same is hereby repealed. ^{Act repealed}

This act shall be in force from after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives,
ALLEN TRIMBLE,
Speaker of the Senate.

January 2, 1824,

AN ACT declaring offices vacant in certain cases, and to provide for filling the same.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That every commission that may be hereafter issued by the governor, to any judge of the supreme court, president or associate judge of either of the courts of common pleas, shall be transmitted by the secretary of state to the clerk of the court of common pleas of the county wherein such judge may reside; and it is hereby made the duty of such clerk, to receive and forthwith to transmit the same to the person entitled thereto: whereupon, such person having received such commission, shall take the oath or affirmation required by the constitution and laws of this State, and transmit a certificate thereof to the same clerk, signed by the officer administering such oath or affirmation, within twenty days after he shall have received such commission; and the county commissioners of the county to which such commission may be forwarded, shall make an allowance to the said clerk, for postage and other expenses necessarily incurred, in complying with the requisitions of this section, to

^{Commissions of}
^{Judges to be sent}
^{by the secretary}
^{of state to the}
^{clerk C C P of}
^{county where}
^{Judges reside}

^{Clerk's duty}

^{Judge to take an}
^{oath and trans-}
^{mit certificate of}
^{same to clerk}

FILLING VACANCIES.

be paid out of the county treasury, in case the person entitled to receive said commission should refuse to accept the same and pay said expense.

In what cases of-
fice to be consid-
ered vacant

Sec. 2. That in all cases where such certificate may not be transmitted to the clerk, within the said twenty days, as is herein above provided, the person entitled to receive such commission shall be deemed to have refused to accept the office mentioned in such commission, and said office shall be considered vacant; whereupon, said clerk shall, forthwith thereafter, certify the said matter to the governor, who shall proceed according to law to fill said vacancy.

Removal of
judge without
his jurisdiction
shall be taken
as a resignation

Sec. 3. That in case any judge of the supreme court should remove his residence out of this State, or any president of the court of common pleas out of his circuit, or any associate judge out of his county, he shall be considered as having resigned and vacated his office; whereupon, such vacancy shall be filled according to law.

Every officer
of whom bond
or security may
be by law requi-
red, who shall
neglect to exe-
cute same, &c.
shall be taken to
have refused to
accept his office

Sec. 4. That every sheriff, coroner, justice of the peace, or other officer, of whom bond or security may be by law required, previous to the performance of the duty required of him, who shall neglect or refuse to execute such bond, or find such security, agreeable to, and within the time prescribed by law, and in all respects to qualify himself for the performance of his official duties; such sheriff, coroner, justice of the peace, or other officer, shall be deemed to have refused to accept his office, and the same shall be considered vacant: whereupon, such vacancy shall be filled as other vacancies are by law to be filled.

This act to take effect and be in force from and after the first day of June next.

JOHN POLLOCK,

Speaker of the House of Representatives.

THOMAS KIRKER,

Speaker of the Senate:

January 25, 1813.

AN ACT authorizing the governor to fill vacancies in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any officer, the right of whose appointment is, or may be, vested in the General Assembly, shall, during the recess die, or his office by any means become vacant, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the Legislature.

This act to commence and be in force from and after the passage thereof.

MICHAEL BALDWIN,

Speaker of the House of Representatives.

DANIEL SYMMES,

Speaker of the Senate.

February 14, 1805.

NOTARIES PUBLIC.

409

AN ACT to provide for commissioning certain officers.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That each judge of the supreme court, president and associate judge of the court of common pleas, sheriff, coroner, auditor, state treasurer, militia officer and justice of the peace, and every officer whose office is created by law, and not otherwise provided for, shall be entitled to receive from the governor a commission to fill such office, upon producing to the secretary of State a legal certificate of his being duly elected or appointed: *Provided,* That the election of all officers elected or appointed by the Legislature, shall be certified by the speakers of both houses.

MATTHIAS CORWIN,
Speaker of the House of Representatives.

PETER HITCHCOCK,
Speaker of the Senate.

February 26, 1816.

AN ACT for appointing Notaries Public.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of the governor of this State to appoint and commission notaries public, in such towns or counties severally, as he may deem necessary; and to fill any vacancies which may happen in said appointments.

Governor to appoint notaries & fill vacancies

Sec. 2. That each notary public shall be entitled to hold his office for three years, if so long he behave well; and previous to entering upon the duties thereof, he shall give bond to the governor, for the time being, in the penal sum of fifteen hundred dollars, conditioned for the faithful discharge of the duties of notary public, and shall take an oath or affirmation that he will discharge the same honestly and diligently, and without favor or partiality: and each notary public thus appointed and qualified, shall use and exercise his office for such place as shall be expressed in his commission; and due faith and credit shall be given to his protestations, attestations, and other instruments of publication.

To continue in office three years and give bond to governor & take oath

Faith to be given to his acts

Sec. 3. That each notary public shall provide a notarial seal, with which he shall authenticate all his official acts; on which seal shall be engraved the arms of this State and place of his office; which seal, together with the registers and official documents shall not be liable to be seized on by any execution: and in case of the death or removal of said notary, the afore said register and official documents shall be lodged in the office of the recorder of deeds, in the proper county, for the use of his successor in office.

To provide a notarial seal

Seal, &c. exempt from execution

In case of death, &c documents to be lodged with recorder

Sec. 4. That every notary public may demand and receive, for

APPOINTMENT OF CERTAIN OFFICERS.

Notary's fees

every attestation, protestation or other instrument of publication, under the seal of his office, one dollar; and for recording, in a book to be kept for that purpose, each attestation, protestation, or other instrument of publication, the sum of one dollar; which several sums shall be paid by the person or persons at whose instance the services shall be performed.

This act to take effect and be in force from and after the first day of May next.

MATTHIAS CORWIN,

Speaker of the House of Representatives.

PETER HITCHCOCK,

Speaker of the Senate.

February 7, 1816.

AN ACT for the appointment of certain officers therein named.

Common pleas
or associate judges,
may appoint
sheriff in certain
cases

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever the offices of sheriff and coroner, in any county, shall, from any cause, become vacant, the court of common pleas of such county, or the associate judges thereof, may appoint some suitable person to perform the duties of sheriff, until the next annual election; and whenever the sheriff and coroner shall be incapable of serving any process, when required to be served, by reason of absence, sickness, or other disability, or shall be incompetent to serve the same, by reason of interest, some suitable person may be appointed by the court of common pleas, or associate judges as aforesaid, to serve such process, or to perform the duties of sheriff, during the continuance of such disability.

May require security, at their discretion.

Power of person appointed

Sec. 2. That the court, or associate judges making such appointment, may require the person so appointed, to give such bond and security for the faithful discharge of the duties of his appointment, as they shall deem proper; and the person so appointed shall have the same power, be subject to the same regulations, in the service and return of process, and shall be entitled to the same fees, and be proceeded against for misconduct or neglect of duty, as other sheriffs.

Sheriffs, clerks, recorders and auditors, may appoint deputies

Provided

Sec. 3. That the sheriff of any county may appoint one or more deputies, to be approved by the court of common pleas, or associate judges of such county; and the clerks of the supreme court, and courts of common pleas, may each appoint a deputy, to be approved by their respective courts: the recorder of any county may also appoint a deputy, to be approved by the court of common pleas, or associate judges of such county; and the auditor of any county may appoint a deputy, to be approved by the commissioners of such county: *Provided,* That the court or county commissioners (as the case may be,) be satisfied that the duties of recorder or auditor require such deputy.

Sec. 4. That the appointment of every such deputy, shall be evidenced by a certificate thereof, signed by his principal, and shall continue during the pleasure of the principal: and every principal may take such bond and security from his deputy, as he shall deem necessary, to secure the faithful discharge of the duties of his appointment; and the principal shall, in all cases, be answerable for the neglect of duty, or misconduct in office, of his deputy. Principal may take bond from his deputy, and shall be liable for his acts

Sec. 5. That every such deputy shall, previous to entering on the duties of his appointment, take an oath or affirmation, faithfully to perform all the duties of his appointment; and when so qualified, the deputy may do and perform any and all of the duties appertaining to the office of his principal. Deputies to be sworn. Their power

Sec. 6. That the "Act for the appointment of certain officers therein named," passed January thirtieth, eighteen hundred and eighteen, be, and the same is hereby repealed: *Provided*, That the repeal of said act shall not invalidate the appointment of any deputy heretofore made, in conformity with the provisions thereof. Act repealed. Provide

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 17, 1831.

AN ACT to regulate the admission and practice of Attorneys and Counselors at law.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That from and after the passage of this act, no person shall be permitted to practice as an attorney or counselor at law, or to commence, conduct, or defend any action, suit or plaint in which he is not a party concerned, either by using or subscribing his own name, or the name of any other person, unless he shall have been previously examined, and admitted, by any two judges of the supreme court. Attorneys and counselors must be admitted by two judges of the supreme court

Sec. 2. That whenever any person shall apply to any two judges of the supreme court, to be admitted as an attorney or counselor at law, it shall be the duty of the judges of said court, either by themselves, or some person or persons learned in law, by them appointed, to examine such applicant; and if on such examination had, the said judges shall be of opinion that the applicant is qualified, and is of good moral character, they shall direct their clerk to administer an oath of office, and to record the admission of such applicant. Judges to examine applicant. Oath to be administered

Sec. 3. That no person shall be admitted to such examina-

Residence of one
year required

A certificate of
moral character,
two years study,
&c.

Proviso

tion unless he shall have previously resided one year within this State, and shall produce from some attorney or counselor at law a certificate, setting forth that such applicant is of good moral character, and that he has regularly and attentively studied the law, during the period of two years previous to his application for admission, and that he believes him to be a person of sufficient legal knowledge and abilities to discharge the duties of an attorney or counselor at law: *Provided*, That any person residing in this State, producing satisfactory evidence to the said judges, that he has been regularly admitted as an attorney or counselor at law in any court of record within the United States, and has been in the practice of law in some one of the United States, during the period of two years previous to his application for admission, may be admitted to an examination at any time, by producing to said judges, from some practicing attorney or counselor at law, a certificate, setting forth that such applicant is of good moral character, and has sustained the character of an able and fair practitioner; and said applicant satisfying the judges aforesaid, by affidavit or oath, that he actually resides in this State, and intends to become a citizen thereof.

Attorneys, &c.
may be suspended
Proviso

Proviso

Sec. 4. That the supreme court, or court of common pleas, shall have power to suspend any attorney or counselor at law from practicing in their respective courts, for misconduct in office, or for good cause shown: *Provided always*. That every attorney or counselor, before he is suspended, shall receive a written notice from the clerk of the court, stating distinctly the grounds of complaint, or the charges exhibited against him; and he shall, after such notice, be heard in his defence, and shall be allowed reasonable time to collect and prepare testimony in his justification: *Provided also*, That in case of a suspension by the court of common pleas, an appeal may be had to the supreme court.

Must be citizens
of the U. States

Judges, clerks,
&c. prohibited
from practicing
as attorneys, &c

Proviso

Sec. 5. That no person shall hereafter be permitted to practice as an attorney or counselor at law, in any court in this State, who is not a citizen of the United States, and who does not actually reside in this State, any license heretofore granted, to the contrary notwithstanding, except in causes in which he shall have been employed before the taking effect of this act; or who holds a commission as judge of the supreme court, or a court of common pleas; or who is clerk of the supreme court, or a court of common pleas, in any court of which he is clerk; or who is a sheriff, coroner, or deputy sheriff: *Provided*, That nothing herein contained, shall in any wise prevent attorneys or counselors at law from practicing in this State, who resides in States or Territories which permit attorneys or counselors at law residing in this State, to practice therein: *And provided further*, That nothing in this act contained, shall prevent any judge of any of the courts of this State, from finishing any business by him undertaken in the circuit or district courts of the United States, prior to his appointment as judge.

Sec. 6. That if any suit shall be dismissed for the non-attendance of an attorney practicing in any court of record within this State, such attorney not having a just and reasonable excuse, it shall be at his costs; and he shall be liable for all damages his client shall sustain by such dismissal, or any other neglect of his duty; to be recovered in any court of record within this State: and every attorney receiving money for his client, and refusing or neglecting to pay the same when demanded, shall be proceeded against in a summary way, on motion, before any court of record, either in the county in which judgment shall have been rendered, on which such money shall have been collected, or in the county in which such attorney or counselor shall reside, in the same manner, and be liable to the same penalties, as sheriffs and coroners are liable to, for money received on execution. Attorneys liable for negligence, &c.

Sec. 7. That the act, entitled "An act regulating the admission and practice of attorneys and counselors at law," passed January twenty-seventh, eighteen hundred and ten; and the act amendatory thereto, passed January twenty-eighth, eighteen hundred and nineteen; be, and the same are hereby repealed. Acts repealed

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

February 14, 1824.

AN ACT to provide for the appointment of prosecuting attorneys.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That there shall be appointed by the courts of common pleas, for the respective counties within this State, a prosecuting attorney for each county, who shall hold his office during the pleasure of the court, and whose duty it shall be to prosecute for and on behalf of the State, all complaints, suits, and controversies, in which the State shall be a party, within the county for which he shall have been appointed, both in the supreme court and court of common pleas: and for his services he shall be entitled to receive such compensation for each term, as shall be allowed by the court of common pleas of the county wherein such services shall have been rendered; the amount to be determined by such court annually, at their first term after the first day of March, and to be paid out of the county treasury, on the order of the county auditor.

M. T. WILLIAMS,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 22, 1826.

AN ACT to provide for the support and better regulation of common schools.

Preamble

Whereas, it is provided by the constitution of this State, that schools, and the means of instruction, shall forever be encouraged by legislative provision: Therefore,

A fund to be raised for the use of common schools

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That a fund shall hereafter be raised in the several counties of this State, in the manner pointed out by this act, for the use of common schools, for the instruction of the white youth of every class and grade, without distinction, in reading, writing and arithmetic, and other necessary branches of education.

Amount of school tax, and how levied and collected

Sec. 2. That, for the purpose and use aforesaid, there shall be annually levied and assessed, upon the ad valorem amount of the general list of taxable property, in each county of this State, the property of blacks and mulattoes excepted, three fourths of a mill on the dollar; which assessment shall be made by the county auditor, and collected by the county treasurer, in the same manner as all other taxes for State and county purposes are directed by law to be levied and collected: *Provided,* That the county commissioners of any county may, if they deem it expedient, at their annual session in June, direct the auditor of their county to levy, for the purpose aforesaid, one fourth of a mill on the dollar of the valuation of the taxable property in such county, in addition to the sum above named.

County comm'rs may add fourth of a mill

Township trustees to lay off and alter school districts

Sec. 3. That the trustees of each incorporated township in this State, where the same has not been already done, shall lay off their township into school districts, in the manner most convenient for the population and different neighborhoods thereof, paying due regard, in so doing, to any school house already erected, school district already laid off, incorporated school, and to schools in villages, or populous towns: and they may, from time to time, make such alterations in the districts, as, in their opinion, the general good of the townships, and the convenience of the inhabitants, may require: *Provided,* That no alteration of any district shall be made, unless notice of the time and place at which the trustees will meet for the purpose of making the same, shall have been posted up in three public places in each district, in which an alteration is contemplated, at least twenty days prior to such meeting.

Provide

Districts including a portion of two or more townships, how laid off or altered

Sec. 4. That when public convenience requires a school district to be so formed, as to include a portion of two or more adjoining townships, whether such townships be in the same county or not, a majority of the trustees of such adjoining townships may meet, and lay off a district in such manner as will best suit the population of their respective townships; and such district may, at any time, be altered by a majority of the trustees of such adjoining townships, under the restrictions contained in the preceding section of this act: *Provided,* That the

concurrence of a majority of the trustees of each township shall be necessary for the formation or alteration of any such district.

Sec. 5. That it shall be the duty of the township trustees, immediately after laying off or altering any district in their respective townships, to describe and number the same, and to deliver the number and description thereof to the clerk of the township, who shall record the same in the township records; and when any district shall be laid off from two or more adjoining townships, or, being laid off, shall be altered, the number of such district, and a description of the several parts thereof, lying in the different townships, shall be signed by a majority of the trustees of each township, and a copy thereof delivered to the clerks of the respective townships, and by them recorded as aforesaid.

Description and number of district to be recorded by township clerks

Sec. 6. That it shall be the duty of the township clerk, in each township, within twenty days after he shall have recorded the same, to deliver the number and description of each district, and part of district, in his township, and a description of such alterations as shall be made therein by the trustees, from time to time, to the county auditor of his county, who shall file the same in his office.

When recorded, to be delivered to county auditor

Sec. 7. That whenever any school district shall be laid off agreeably to the provisions of this act, any house holder may, for the purpose of organizing the same, call a meeting of the house holders residing therein, by posting up notices in three public places in said district, of the time and place, and object, of holding such meeting, not less than ten days previous to such meeting; and such meeting, when convened and organized, by choosing a chairman to preside, shall choose a district clerk, who shall keep a record of all the proceedings of district meetings, in such district; three school directors, to manage the concerns of the district; and a district treasurer: all of whom shall take an oath or affirmation, faithfully to discharge the duties of their respective offices, and shall hold their offices until the first annual meeting of said district, and until their successors are chosen and qualified: and if any director, clerk or treasurer, of any school district, appointed under the provisions of this act, shall refuse to serve as such, he shall forfeit and pay the same penalty as now is, or may hereafter be, assessed by law, against trustees of townships for refusing to serve as such; to be collected by the treasurer of said district, before any justice of the peace of the township in which said district, or any part of it, may be situated, and applied by the directors thereof to the use of the schools in said district: *Provided*, That no person shall be compelled to serve as a director, clerk or treasurer, two years in succession.

Districts, how organized

Officers to take an oath, and continue in office one year

Penalty for refusing to serve

Sec. 8. That there shall hereafter be an annual district meeting in each organized school district, which shall be held on the third Tuesday of October in each year, at the school

Annual district meetings

when and
where to
holden

house in said district, if there be one, and if there be none, then at such place as the school directors of such district shall appoint: and at all such annual meetings, they may transact all the ordinary business of the district, and shall elect three school directors, a district clerk, and a district treasurer for the ensuing year, who shall be qualified as aforesaid, and hold their respective offices until the next annual district meeting, and until their successors are chosen and qualified.

How many
shall consti-
tute a quorum

Sec. 9. That at all district meetings in those districts in which the number of householders residing therein does not exceed thirty, one third of the householders shall be a quorum for the transaction of business in such district; and if the number of householders in any district exceed thirty, in that case ten shall be considered a quorum for the transaction of business in such district: and at all district meetings, except those convened under the provisions of the thirteenth section of this act, a majority of the householders present (in case there be a quorum,) shall be competent to decide all matters and propositions submitted for the decision of such meeting.

If no election
at annual
meeting, any
householder
may call a
meeting to
elect officers

Sec. 10. That if, from the want of a quorum, or from any other cause, there be no election at the annual district meeting, any householder residing in the district may call a meeting for the election of officers, in the manner prescribed in the seventh section of this act; and the persons elected at such meeting, shall hold their offices until the next annual meeting, and until their successors are elected and qualified.

Clerk and
directors may
administer
oath of office

Sec. 11. That the oath or affirmation required to be taken by the directors and treasurer of the district, may be administered by the clerk; and the oath or affirmation to be taken by the clerk, may be administered by any one of the directors.

Directors
may call spe-
cial meetings

Sec. 12. That whenever, in the opinion of the school directors, a special district meeting may be necessary, they may call the same, by posting up notices of the time, place and object, of such meeting, in three public places in the district, at least ten days prior to such meeting.

Meeting to
determine
whether a tax
shall be levied
for the erec-
tion of school
houses, etc.,
how called,
and who may
vote

Sec. 13. That whenever the school directors shall deem it necessary to erect, repair, or complete a school house for their district, or to furnish such house, or to make any improvements on the school house lot belonging to the district, they may call a special district meeting, in the manner prescribed in the preceding section of this act—with this difference, that the notices shall be posted up at least thirty days prior to such meeting; and such meeting shall decide whether a tax shall be levied for any of the purposes aforesaid, the amount thereof subject to the restrictions hereinafter specified, and the time within which the same shall be paid; and at such meeting, all persons liable to taxation for the purposes aforesaid, and residing within the district, shall, if present, be allowed to vote; and no such tax shall be assessed except by a vote of three fifths of the voters present at such meeting.

Sec. 14. That the amount of the tax in any one year, shall be subject to taxation within the district wherein the property is situated; and in half of the taxable property persons residing therein exceeding one hundred dollars; and in case of such property, the district, such tax shall not be levied on a tract of less than five dollars in any one year.

Sec. 15. That the site of the school house, and designated by the assessment of any tax for the purpose of the purposes of the act, shall be levied on a tract from the site of the school house repaired; and no land of any non-resident proprietor, once

taxed for the purpose aforesaid, shall, by any alteration of districts, be again subject to taxation for the like purpose, for the term of three years from and after the assessment of such tax.

Sec. 16. That if the meeting convened for that purpose decide that such tax shall be levied, the school directors shall apply to the auditor of the county, who, upon being furnished with a list of the names of all persons liable to taxation within such school district, shall furnish said directors with an abstract of all the property within such district, subject to such tax, not including the property of any black or mulatto person: and the said directors shall levy upon such property the amount of tax so agreed on by the meeting, and shall cause a duplicate thereof to be made out by the district clerk, or some other suitable person, and delivered to the district treasurer for collection; and in making out such duplicate, each householder residing in such district, on whose property such tax would not amount to fifty cents, shall be charged with fifty cents: and the school directors may, at their discretion, commute any tax assessed under the provisions of this section, for labor or materials, to be applied, under their direction, to the erection, completion or repair of a school house, in their district.

Sec. 17. That if the county auditor, when making an abstract of taxable property in any school district, as required in the preceding section, shall find any tract of land to be divided by the boundary line of such district, or that part of a tract lies within three miles from the site of the school house for said district, and part thereof more than three miles from such site, he shall determine, from the best information in his possession, what proportion of such tract is situated within such district, and within three miles from the site of the school house, and make out such abstract accordingly; and the tax assessed on

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COMMON

such part of a tract, subject to taxation with

they may employ a of the school or expend in the donations, to their settle

Sec. 18. That any tax duplicate to give bond in office, proved by district

Settlement who with treasurer

Duty of district treasurer in collecting tax

May be commuted for labor or materials

How to proceed when part of a tract is subject to taxation and part not

when and
where to
holden

house in said district shall be as valid as if the whole were sub-
then at such place in such district and taxed entire.

appoint: and at the district treasurer, before he shall receive
the ordinary rate, or any money belonging to his district, shall
directors, as the directors of his district, and their successors
suing year such sum, and with such security, as shall be ap-
respect of by said directors; which bond shall be filed with the
united clerk, and by him recorded.

How many
shall constitute
the district

Sec. 19. That the district treasurer to whom a tax duplicate
shall be delivered for collection as aforesaid, shall, within the
time prescribed by the district meeting for the payment of such
tax, personally demand the same of the several persons char-
ged thereon, if to be found within his county; and if such tax
be not paid before the expiration of the time so prescribed,
such district treasurer may then collect the same by distress
and sale of personal property, in the same manner as county
treasurers are authorized to do in the collection of State and
county taxes, and shall be allowed the same fees for his servi-
ces under the provisions of this section as are allowed to county
treasurers for like services: and if the tax so assessed on the
real property of any non-resident, shall remain unpaid for the
space of three months, after the expiration of the time pre-
scribed as aforesaid, for the payment thereof; and if sufficient
personal property belonging to such non-resident cannot be
found within the county, whereof to make such tax by dis-
tress and sale; the district treasurer shall then report such
delinquency to the auditor of the county: and said auditor,
in making out the duplicate of State and county taxes
next thereafter, shall enter such delinquent district tax in a
marginal column of such duplicate, and on a line with the
State and county tax on the same property: and such delin-
quent tax shall be collected by the county treasurer, at the
same time, and in the same manner, as the State and county
taxes charged on the same property are by him collected; and
when so collected by the county treasurer, shall be by him
paid to the treasurer of the school district in which such pro-
perty is situated, on the order of the county auditor.

Delinquent
tax of non-
residents, how
collected

School direc-
tors made a
body corpo-
rate

Sec. 20. That the directors of each school district, and
their successors in office, shall be a body politic and corporate
in law, and as such shall be capable of contracting and being
contracted with, suing and being sued, pleading and being im-
pleaded, in any court of law or equity in this State; and as
such shall be capable of receiving any gift, grant, donation or
devise, made to, and for the use of such district, and may re-
ceive a deed of conveyance or lease, for any land whereon to
erect a school house; which deed or lease shall be made to
the school directors, and their successors in office, for the sole
use of such district: they may, when authorized by a district
meeting, contract on behalf of such district for the erection,

Their power
and duties

completion or repair of a school house: they may employ a school teacher, (or teachers if necessary) for their district; and shall manage and superintend the concerns of the school or schools therein, and faithfully appropriate and expend in the support of such school or schools, all subscriptions, donations, dividends of school funds, and other moneys belonging to their respective districts, for that use: they shall annually settle with the treasurers of their respective districts, and examine their vouchers; and in settling with any district treasurer, who shall have received a duplicate of taxes for collection, as hereinbefore provided, they may exonerate such treasurer from all liability on account of such taxes as they shall be satisfied he has been unable to collect: and a statement of every settlement so made with the treasurer, shall be entered in the books of the treasurer, and signed by the directors: and said directors shall perform all such other lawful acts as may, from time to time, be required of them by any district meeting in their respective districts; and in all cases, the concurrence of any two of them shall be sufficient for the transaction of business.

Settlement
with treasurer

Sec. 21. That all moneys which shall come into the hands of any district treasurer, belonging to his district, shall be by him paid over on the written orders of the directors of such district, and not otherwise; and all such orders received and paid by the treasurer, shall be by him carefully filed and preserved: he shall also keep a book, in which he shall enter an account of all receipts and disbursements on account of his district; and at the expiration of his term of service, shall deliver to his successor in office, all books, papers and moneys in his hands, belonging to his district.

Duty of treasurer in paying out money and keeping accounts

Sec. 22. That all moneys which come into the hands of the trustees or treasurer of any original surveyed township in this State, accruing from the rents of any school land belonging to such township, shall be by them annually paid over to the treasurer of the respective school districts, or parts of districts, in such township, in proportion to the number of scholars in each district or part of district, between the ages of four and twenty one years: and all the money which shall come into the hands of the treasurer of any civil township, for the use of schools therein, shall be annually apportioned and paid over in like manner, to the treasurers of the several school districts in such township.

Township treasurers to pay school money to district treasurers

Sec. 23. That there shall be appointed by the court of common pleas of each county in this State, a suitable number of persons, not less than five, nor more than double the number of townships in such county, to be called examiners of common schools, and who shall serve for two years, and until their successors shall be appointed: and such examiners, or any two of them, shall examine every person wishing to be employed as a teacher, and if found qualified, and of good moral character, shall give him or her a certificate to that effect,

Appointment and duty of school examiners

naming therein the branches which he or she is found qualified to teach; which certificate shall be valid for one year from the date thereof, and no longer: and no person who shall not have obtained such certificate, shall receive from the treasurer of any district any compensation for teaching a school therein.

They may adopt rules, prescribe forms, examine schools, etc.

Sec. 24. That the school examiners in each county, may meet at such times and places as they may deem expedient: they may adopt such rules for the examination of teachers and schools, and prescribe such forms for certificates as they may deem necessary, to produce uniformity in such examinations and certificates throughout the county; and they may, if they deem it expedient, appoint days for the public examination of teachers, and require all teachers to be examined in public: and said examiners, or any one of them, may visit all district schools in their county, and examine the same.

Each examiner to be governed by the rules of the majority, etc.

Sec. 25. That each examiner shall be governed by such rules in his examinations, and observe such forms in his certificates, as shall be prescribed by the majority of the examiners of his county; and no certificate of qualification shall be given by the examiners, or any one of them, to any teacher, unless he or she be found qualified to teach reading, writing and arithmetic.

Duty of district clerk in keeping a record

Sec. 26. That the clerk of each school district shall attend all district meetings, and record in a book to be provided for that purpose, all the proceedings of such meetings, stating therein the time and place at which the meeting was held; and if convened in pursuance of a notice, stating the notice, and the object for which the meeting was convened, and that a quorum was present, (if such be the fact,) and the names of all the district officers elected and qualified: and if the meeting be convened under the provisions of the thirteenth section of this act, the clerk shall state in his record, the names and number of voters present, and the names and number of those who vote in favor of, and against a tax, and the time agreed on by the meeting for the payment of such tax; and no such record shall be invalid for want of form, provided it contain the substance.

Record subject to inspection

Certified copies made evidence

Sec. 27. That the record kept by the district clerk, may, at any time, be inspected by any householder residing in the district: and the clerk shall make out and deliver to any person demanding the same, whether residing in such district or not, a certified copy of such record, or of such part thereof as shall be demanded, on being paid therefor at the rate of ten cents for every hundred words contained therein; and such certified copy shall be received in all courts and places, as prima facie evidence of the truth of the matters therein stated.

Clerk to take and return to county auditor an annual

Sec. 28. That the clerk of each school district shall, annually, in the month of November, take a list or enumeration in writing, of all the white youth in his district, between the ages of four and twenty-one years, not including any who are married, and shall return the same to the auditor of his county,

with an oath or affirmation indorsed thereon, that the same is enumeration of children a true enumeration to the best of his knowledge.

Sec. 29. That if any school district shall be partly situated in an original surveyed township, or fractional township, to which belongs any section sixteen, or other lands in lieu thereof, granted by Congress for the use of schools in such township or fractional township; or to which belongs any interest arising from the money for which such land has been sold; the clerk of such district shall, in taking the annual enumeration of youth therein, as required in the preceding section, enumerate separately those residing in that part of the district situated in such original surveyed township, or fractional township: and where any district comprises a portion of two or more civil townships, the clerk shall specify in his enumerations of the youth, the township in which they severally reside.

How to make enumeration when district comprises a portion of two or more original surveyed or civil townships

Sec. 30. That the district clerk, at the expiration of his term of service, shall deliver to his successor in office, all the books, records and papers, in his possession, relating to his school district.

Clerk to deliver books, &c to successor

Sec. 31. That the auditor of each county shall, immediately after his annual settlement with the county treasurer, apportion to the several school districts in such county, all the money then in the treasury of such county, for the use of schools therein, as follows, to-wit: All the money collected on the tax duplicate of any township, for the use of schools, shall be apportioned to the several districts and parts of districts, in such township; all the money received from the State treasury, on account of interest on the money accruing from the sale of section sixteen, or other land in lieu thereof, shall be apportioned to the several districts, and parts of districts, in the original surveyed township, or fractional township, to which such land belonged; all moneys received by the county treasurer from the State treasury, on account of the Virginia military school fund, shall be apportioned to the several school districts, and parts of districts, within the county, lying within the Virginia military district; and all other money for the use of schools in the county, shall, if its appropriation is not otherwise directed by law, be apportioned to all districts in the county: and all such apportionments shall be made to the several districts and parts of districts, in proportion to the number of youth therein, as returned by the district clerks, in November next preceding.

Duty of county auditor in apportioning school funds to the several districts

Sec. 32. That the county auditor shall open an account with each school district in his county, in a book to be by him kept for that purpose; and if any district in his county shall comprise a portion of two or more original surveyed or civil townships, he shall open an account with the parts of the districts situated in the different townships; and he shall credit each district, and part of district, with its annual apportionment, to be made as aforesaid, of the school fund in the county

Auditor to open an account with each school district, &c

To give district treasurer orders on county treasury

Proviso

School fund to be applied to the payment of qualified teachers only

During the expenditure of school fund, schools to be free, &c.

Provisos to distinct funds

The school funds of organized townships not districted within three years, to be apportioned in other townships

Suits for and against school

treasury: and on the application of the treasurer of any district, at any time after such apportionment shall be made, the auditor shall give to such treasurer an order on the treasurer of the county, for the amount so credited to his district, or part of district, and shall charge the district, or part of district, therewith: *Provided*, That the district treasurer applying for such order, shall first produce to the auditor a certificate from the clerk of the district, stating that such district treasurer has been duly elected and qualified, and has given bond according to law.

Sec. 33. That all the money which shall come into the treasury of any school district, for the use of schools therein, shall be appropriated, on the orders of the directors, to the payment of the teachers of schools in such district, and to no other purpose whatever; and no order presented by any teacher to the district treasurer, shall be by him paid, unless such teacher, at the same time, exhibit such a certificate of qualification and moral character, from the examiners of schools in the county, as is required by this act.

Sec. 34. That when any appropriation shall be made by the directors of any school district, from the treasury thereof, for the payment of a teacher, the school in such district shall be open to all the white children residing therein, for the space of three months, and as much longer as such appropriation will pay the teacher: and if such appropriation shall be insufficient to pay the teacher for the term of three months, the residue of his wages, if not raised by voluntary subscription, shall be paid by those sending to such school, in proportion to the number of scholars by them respectively sent to said school, and the time they shall attend the same: *Provided*, That in those districts comprising a part of two or more original surveyed or civil townships, the school funds shall be so applied, that the several parts of the district divided by township lines, shall receive the benefit of their separate funds.

Sec. 35. That if any township already organized, shall not, within three years from the passage of this act, and any township hereafter organized, within three years from the organization thereof, be districted according to the provisions of this act, and some district therein organized, all the money collected on the tax duplicate of such township, for the use of schools, shall be by the auditor of the county apportioned to the organized districts in the other townships of his county; and he shall so continue to do until such township be districted, and some district therein organized: and all the money for the use of schools, collected on the tax duplicate of any unorganized township, shall be retained in the county treasury until such township shall be organized, and for three years thereafter, unless sooner districted, and some district therein organized, according to the provisions of this act.

Sec. 36. That all suits brought in behalf of any school district, except such as shall be brought against the treasurer there-

of, shall be in the name of the district treasurer, for the use of districts, how such district; and when any suit in behalf of, or against any district, shall be entered in the court of common pleas, or supreme court of any county in this State, whether an original suit, or entered by way of appeal or certiorari, the prosecuting attorney of such county shall attend to the prosecution or defence thereof, in behalf of such district, as a part of his official duties: and in all suits against any district, leaving an attested copy of the process with the district clerk, shall be considered sufficient service thereof.

Sec. 37. That the courts of chancery in this State, may enjoin the collection of any tax, for the erection, repair, or completion of a school house, when satisfied that the assessment thereof is illegal. The collection of school house tax may be enjoined

Sec. 38. That the act, entitled "An act to provide for the support and better regulation of common schools," passed February 10th, 1829; and the act, entitled "An act to amend the act, entitled 'An act to provide for the support and better regulation of common schools,'" passed February 22d, 1830; and all the acts contrary to the provisions of this act; be, and the same are hereby repealed: *Provided*, That the acts done, obligations incurred, and rights acquired, under the provisions of said acts, shall remain in no wise altered or affected by this act. Acts repealed

This act to take effect and be in force from and after the first day of May next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 10, 1831.

AN ACT to establish a fund for the support of Common Schools.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That there is hereby constituted and established a fund, Fund established to be designated by the name of "The Common School Fund;" the income of which shall be appropriated to the support of common schools in the State of Ohio, in such manner as shall be pointed out by law; of which fund the auditor of State shall be the superintendent, until otherwise directed by law. Auditor of State the superintendent

Sec. 2. That whenever, and so often, as any moneys shall be paid into the State treasury, arising from the sale of any lands which heretofore have been, or hereafter may be, appropriated by Congress, for the use or support of schools in any original surveyed township, or other district of country, in this State, the auditor of State shall forthwith open an account, in a book or books to be provided for that purpose, and shall pass the said moneys to the credit of such township, or other district of coun- Auditor to open an account with each township or district of country to which fund be long

Fund irreducible
and interest ap-
propriated.

try; which said moneys shall constitute an irreducible fund, the proceeds accruing from which shall be paid over and appropriated, in the manner which shall be pointed out by law, for the support of common schools within the township, or other district of country, to and for which such land was originally appropriated, and for no other use or purpose whatever.

Rate of interest,
and from what
time cast

Sec. 3. That all moneys paid into the State treasury as aforesaid, shall bear an annual interest of six per centum; which interest shall be cast from the time of the payment of any principal sum, up to the first day of January next succeeding such payment, and on the first day of January, annually, thereafter: and where the same has not been done, the auditor of State shall, in a book or books to be provided for that purpose, open an interest account with every township, or other district of country, to which a credit in the irreducible fund aforesaid shall have been passed; and he shall, in such book or books, keep accurate accounts of the accrual and disbursement of all interest accruing from such fund, so as aforesaid belonging to any township or district of country: and the faith of the State of Ohio is hereby pledged for the annual payment of the interest aforesaid, to the person who, and in the manner which, shall be pointed out by law; which said interest shall be appropriated and expended for the support and maintenance of common schools within the township, or other district of country, entitled as aforesaid to the same.

Auditor to open
an interest ac-
count

Faith of the
State pledged for
payment of inte-
rest.

Manner of draw-
ing the interest
annually from
State treasury,
and distribution
thereof to the
school districts

Sec. 4. That for the payment of any interest that shall have accrued, and be payable to and for any township, or other district of country as aforesaid, the county auditor of the proper county shall, annually, on or after the first day of January, draw an order on the treasurer of State, in favor of the treasurer of the proper county, for the interest which shall be payable in such county; and upon such order being presented to the auditor of State, he shall thereupon certify an abstract of the amount of interest payable to each township, or other district of country, in such county: and thereupon, on presentation of said order, the treasurer of State shall pay the amount of interest appearing by said abstract to be due; and the said county treasurer, or the person presenting said order for him, shall indorse on said order a receipt for so much as shall be paid thereon, and shall also sign a duplicate receipt, which shall be lodged with the auditor of State, who shall credit the State treasurer therewith, and charge the several items constituting the aggregate of such abstract, to the proper township, or other district of country; and the money so drawn, shall be paid out by the county treasurer, on the order of the county auditor, in the proportions established by law, to the proper person or persons in each school district authorized to receive the same: and in all cases in which a county line shall divide any original surveyed township, or fractional part thereof, the interest payable in such township, shall be received and dis-

disbursed in manner aforesaid, by the treasurer of the county wherein the greatest quantity of land belonging to such township shall be situate; but if it be uncertain in which county the greatest quantity of land in such township be situate, then the said interest shall be received and disbursed by the treasurer of the oldest county in which any part of such township shall be situated.

Sec. 5. That whenever any donation or devise shall be made, by gift, grant, last will and testament, or in any other manner whatever, of any estate, either real, personal or mixed, to the State of Ohio, or to any person, or otherwise, in trust for the said Common School Fund, by any individual, body politic or corporate, the same shall be vested in said Common School Fund; and whenever the moneys arising from such gift, grant or devise, shall be paid into the State treasury, the proper accounts thereof shall be kept, and the interest accruing therefrom shall be appropriated according to the intent and design of such donor, grantor or deviser. Donations and bequests to vest in common school fund

Sec. 6. That there shall be constituted a fund for the support of common schools, which shall belong in common to the people of this State; which shall consist of the net amount of the money which heretofore has been, or hereafter may be, paid into the State treasury, from the sales of the lands commonly called the Salt Lands, and such donations, legacies and devises, as may be made to such fund, or to any person or persons, in trust for the same: and the State of Ohio is hereby pledged to pay the interest annually, on any and all sums of money which shall have been, or may hereafter be, paid into such treasury, from the passage of this act, or the receipt of such money into the treasury aforesaid; and the interest arising as aforesaid, shall be funded annually, until the first day of January, in the year eighteen hundred and thirty-five: after which time the said interest shall be annually distributed to the several counties in this State, in proportion to the number of white male inhabitants above the age of twenty-one years, as by law shall be ascertained, for the apportionment of representatives; and the proportion of interest due to each and every such county, shall be distributed for the support of common schools, in the respective counties, in the manner prescribed in the act to provide for the support and better regulation of common schools. General fund established or what to contain

Sec. 7. That the auditor of State shall give notice, in writing, once in every two months, to the commissioners of the canal fund, of the amount of the capital belonging to the Common School Fund that may be in the State treasury, arising from the sale of lands granted by Congress to the State of Ohio for the use of common schools, agreeably to the several acts that have been, or may be passed, providing for the sale of such lands; and said money shall be paid out of the treasury, on the order State pledged for the interest

Fund subject to of the commissioners of the canal fund, upon the terms specified
their orders in this act.

Auditor to
charge canal
fund with the
drafts on school
fund, and inter-
est thereon, &c.

Sec. 8. That the auditor of State shall open proper accounts, in the books provided in his office for the accounts of the Common School Fund, in which he shall charge the canal fund with every draft which the said commissioners shall draw upon the Common School Fund, as authorized in the preceding section of this act: the said auditor shall charge interest, from the date thereof, on each and every draft so drawn, at the rate of six per centum, yearly; which interest shall be payable on the first day of January in each year, out of the funds provided by law for the payment of interest on the canal debt: and when he shall have given notice to the commissioners, of a sum in the treasury, as directed in a preceding section of this act, he shall charge interest on such sum, which interest shall commence at the expiration of ten days after he shall have transmitted notice: *Provided*, That the draft of the said commissioners be not sooner presented.

Money drawn
from school fund
applied to the
construction of
the canals

Sec. 9. That until the canals now authorized by law shall be completed, all moneys belonging to the Common School Fund, made liable by this act to be drawn from the treasury, shall be applied by the commissioners of the canal fund to defray the expenses of constructing said canals, as other loans for that purpose are, and have been applied.

When the canals
are finished, mo-
ney so drawn to
be some part of
sinking fund, &c.

Sec. 10. That all moneys of the School Fund, drawn as aforesaid from the treasury, and remaining unexpended after the said canals shall be finished, and also all moneys of said fund afterwards drawn in the same manner, shall be considered as a part of the sinking fund for the redemption of the debt of this State, incurred under the provisions of the "Act to provide for the internal improvement of the State of Ohio by navigable canals," passed on the fourth day of February, eighteen hundred and twenty-five, and the act supplementary thereto, passed on the eighteenth day of January, eighteen hundred and twenty-six: and the commissioners of the canal fund shall be, and they are hereby, authorized to manage the same to the best advantage, in such ways as their judgment and knowledge shall direct, for the improvement of said sinking fund, and for its application towards the redemption of the debt aforesaid; and of their proceedings under this act, they shall give account in their annual report to the General Assembly.

Acts repealed

Sec. 11. That the act, entitled "An act to establish a Fund for the support of Common Schools," passed January thirtieth, eighteen hundred and twenty seven; and "An act in addition to 'An act to establish a Fund for the support of Common Schools,' passed February eighteenth, eighteen hundred and thirty: be, and the same are hereby repealed: *Provided*, That the repeal of said acts shall not affect any rights acquired, or obligations incurred, under any of their provisions.

Provided

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER
Speaker of the Senate.

March 2, 1831.

AN ACT to establish an Asylum for the education of deaf and dumb persons, and for repealing all laws heretofore passed on that subject.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the trustees of the Ohio asylum for the education of the deaf and dumb, be, and they are hereby, created a corporation, by the name of "The Trustees of Ohio Asylum for educating the Deaf and Dumb," with all the powers usually incident to such corporations; and by that name, may have, hold and possess property, real, personal and mixed: *Provided,* The annual income thereof shall not exceed twenty thousand dollars: *And provided also,* The same shall only be employed and used in and about the preparations for, and in the education of, [the] deaf and dumb.

Trustees of the asylum incorporated

Proviso in relation to the annual income

Sec. 2. That the present trustees shall hold their offices agreeably to the laws in force when appointed: four trustees shall be appointed, by joint resolution of the General Assembly, every year; who shall hold their offices for three years: the governor shall, ex-officio, be a member, and president of the board: the trustees shall appoint, from their own body, a secretary and treasurer; who shall hold their offices one year, and until others are appointed.

Trustees how appointed and their term of office

Sec. 3. That the trustees shall meet on the second Monday of December; any five of whom shall constitute a board; or at such other time as the president may appoint: they shall report annually to the General Assembly.

When to meet
To report annually

Sec. 4. That the asylum shall be established at Columbus, and the meetings of the trustees be there held.

Location of the asylum

Sec. 5. That the funds, teachers and pupils, shall be under the direction and management of the trustees; subject always to the control of the General Assembly.

Trustees to manage the institution

Sec. 6. That two indigent pupils shall be selected from each judicial district of this State, and be sustained at the expense of the State: they shall not remain in the asylum longer than three years; and their expenses each year shall not exceed seventy-five dollars each: such indigent pupils, shall only be admitted according to the rules and regulations of the institution. A sum sufficient to carry into effect this section, is hereby appropriated out of "any money in the treasury not otherwise appropriated;" and shall be audited and paid on the order of the president of the board.

Two indigent pupils from each judicial district to be sustained at the expense of the State

Appropriation

Sec. 7. That pupils may be admitted from other States, upon such terms and conditions as the trustees may prescribe.

Trustees may admit pupils from other States

TAKING ENUMERATION.

**Former laws re-
pealed** **Sec. 8.** That all laws heretofore enacted on this subject, be,
and the same are hereby repealed.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

March 3, 1831.

AN ACT regulating the mode of taking the enumeration of the white male inhabitants above the age of twenty one years.

**Duty of county
assessor in tak-
ing enumeration**

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That the assessor of each county in this State, shall, in the year eighteen hundred and twenty-seven, and every fourth year thereafter, at the same time he is, or may be, required by law to take the list of taxable property, take the enumeration of all the white male inhabitants above the age of twenty-one years, whose usual place of residence shall be in any family within his county, or who may be found therein, without any settled place of residence in any other county, but are inhabitants of this State at the time of taking such enumeration; and shall make out a list of names of said inhabitants, and return the same to the clerk of the court of common pleas, at the same time he is, or may be, by law required to return to the county auditor the list of taxable property.

**Duty of the clerk
of the com. pleas**

Sec. 2. That each clerk of the court of common pleas in the several counties, shall file in his office, and carefully keep and preserve, the lists returned as aforesaid, and make out a statement of the aggregate amount of the white male inhabitants above the age of twenty one years, in his county, agreeably to the returns made to him as aforesaid, under his hand, and the seal of the court, and transmit the same to the speaker of the senate, within ten days after the commencement of the next session of the General Assembly.

**Penalty for neg-
lect of duty**

Sec. 3. That any clerk of the court of common pleas, or any county assessor, who shall neglect or refuse to perform all or any of the duties required of him by this act, shall forfeit and pay for every such offence, a sum not exceeding three hundred dollars; which fines or penalties imposed by this section, may be recovered by action of debt in the name of, and for the use of the county.

Act repealed

Sec. 4. That the act, entitled "An act regulating the mode of taking the enumeration of the white male inhabitants, above the age of twenty-one years," passed January 17th, 1817, be, and the same is hereby repealed.

EDWARD KING,

Speaker of the House of Representatives.

A. SHEPHERD,

Speaker of the Senate.

January 10, 1827.

AN ACT regulating Marriages.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That male persons of the age of eighteen years, female ^{Who may join in marriage} persons of the age of fourteen years, not nearer of kin than first cousins, and not having a husband or wife living, may be joined in marriage: *Provided, always,* That male persons under the age of twenty-one years, female persons under the age of ^{Provide} eighteen years, shall first obtain the consent of their fathers, respectively; or in case of the death or incapacity of their fathers, then of their mothers or guardians.

Sec. 2. That it shall be lawful for any ordained minister of ^{Ministers &c. may solemnize marriage} any religious society or congregation, within this State, who has, or may hereafter, obtain a license for that purpose, as hereinafter provided, or for any justice of the peace in his county, or for the several religious societies, agreeably to the rules and regulations of their respective churches, to join together as husband and wife, all persons not prohibited by this act.

Sec. 3. That any minister of the gospel, upon producing to ^{Ministers may obtain license, and how} the court of common pleas of any county within this State, in which he officiates, credentials of his being a regular ordained minister of any religious society or congregation, shall be entitled to receive, from said court, a license, authorizing him to solemnize marriages within this State, so long as he shall continue a regular minister in such society or congregation.

Sec. 4. That it shall be the duty of every minister, who is ^{Ministers to file licenses with clerk, who shall enter names on record} now, or hereafter shall be, licensed to solemnize marriage, as aforesaid, to produce to the clerk of the court of common pleas in every county in which he shall solemnize any marriage, his license so obtained; and the said clerk shall thereupon enter the name of such minister upon record, as a minister of the gospel duly authorized to solemnize marriages within this State, and shall note the county from which said license issued; for which service no charge shall be made by such clerk.

Sec. 5. That when the name of any such minister is so entered upon the record, by the clerk aforesaid, such record, or ^{Record or copy, evidence} the certificate thereof, by the said clerk, under the seal of his office, shall be good evidence that the said minister was duly authorized to solemnize marriages.

Sec. 6. That previous to persons being joined in marriage, ^{Before marriage, parties must publish or get a license} notice thereof shall be published, (in the presence of the congregation,) on two different days of public worship, the first publication to be at least ten days previous to such marriage, within the county where the female resides; or a license shall be obtained for that purpose, from the clerk of the court of common pleas in the county where such female may reside.

Sec. 7. That the clerk of the court of common pleas, as ^{License, how obtained} aforesaid, may inquire of the party, applying for marriage license, as aforesaid, upon oath or affirmation, relative to the legality of such contemplated marriage; and if the clerk shall

Parents or guardians must consent

License to be under seal

Clerk's fees

Penalty

Certificate of marriage to be sent to clerk

Penalty for neglect

Penalty for acting contrary to law

Proof of publication and consent before ministers, &c.

be satisfied that there is no legal impediment thereto, then he shall grant such marriage license: and if any of the persons intending to marry, shall be under age, and shall not have had a former wife or husband, the consent of the parents or guardians shall be personally given before the clerk, or certified under the hand of such parent or guardian, attested by two witnesses, one of which shall appear before said clerk, and make oath or affirmation that he saw the parent or guardian, whose name is annexed to such certificate, subscribe, or heard him or her acknowledge the same; and the clerk is hereby authorized to administer such oath or affirmation, and thereupon issue and sign such license, and affix thereto the seal of the county: the clerk shall be entitled to receive as his fee for administering the oath and granting license, with the seal affixed thereto, recording the certificate of marriage, and filing the necessary papers, the sum of seventy-five cents: and if any clerk shall in any other manner issue or sign any marriage license, he shall forfeit and pay a sum not exceeding one thousand dollars, to and for the use of the party aggrieved.

Sec. 8. That a certificate of every marriage hereafter solemnized, signed by the justice or minister solemnizing the same, shall be transmitted to the clerk of the county wherein the marriage was solemnized, within three months thereafter, and recorded by such clerk: every justice or minister, (as the case may be,) failing to transmit such certificate to the clerk of the county, in due time, shall forfeit and pay fifty dollars; and if the clerk shall neglect to make such record, he shall forfeit and pay fifty dollars, to and for the use of the county.

Sec. 9. That if any justice or minister, by this act authorized to join persons in marriage, shall solemnize the same contrary to the true intent and meaning of this act, the person so offending shall, upon conviction thereof, forfeit and pay any sum not exceeding one thousand dollars, to and for the use of the county, wherein such offence was committed: and if any person not legally authorized, shall attempt to solemnize the marriage contract, such person shall, upon conviction thereof, forfeit and pay five hundred dollars, to and for the use of the county wherein such offence was committed.

Sec. 10. That it shall be the duty of every minister or justice of the peace, before he shall solemnize any marriage between the parties, either of whom is required by the first section of this act, to obtain the consent of his or her parent or guardian, (except in cases where license shall have been obtained from the clerk of the court of common pleas,) to be satisfied that the intention of marriage between such parties has been duly published, and also that the consent of such parents or guardian has been obtained, either by acknowledgment in presence of such minister or justice of the peace, or by a certificate under the signature of such parent or guardian, and attested by one or more credible witnesses, who shall be present for the

purpose of satisfying such minister or justice of the peace, that such certificate was actually signed by the parent or guardian for the purpose aforesaid.

Sec. 11. That any fine or forfeiture arising to the county in consequence of the breach of this act, shall be recovered by an action of debt, or by indictment, with costs of suit, in any court of record having cognizance of the same. Debt or indictment to recover fines

Sec. 12. That the law regulating marriages, passed February sixteenth, one thousand eight hundred and ten; and the act amending the said act, passed January eleventh, one thousand eight hundred and twenty-two; be, and the same are hereby repealed. Laws repealed

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 6th, 1824.

AN ACT concerning Divorce and Alimony.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the supreme court shall have the sole cognizance of granting divorces where either of the parties had a former wife or husband living, at the time of solemnizing the second marriage, or where either of the parties shall be willfully absent from the other three years, or in case of adultery, or where either of the parties is actually impotent at the time of the marriage, or in case of extreme cruelty, or where either party has been, or shall hereafter be, sentenced to imprisonment in the penitentiary, and is actually imprisoned therein, for any infraction of the criminal laws of this State: *Provided*, Application shall be made for a divorce during the time of imprisonment aforesaid. Supreme court to grant divorce, and for what causes

Sec. 2. That in all cases where divorces shall be applied for, the complainant shall file his or her petition in the office of the clerk of the supreme court, three months before the sitting of the said court, and shall also serve the adverse party with a copy of said petition, within one month after filing the same in the office aforesaid, unless the party is not resident in the county, in which case public notice shall be given in one of the newspapers of the State, for three months; which petition shall state the true cause of complaint: whereupon, if the party complained of reside within the county, a summons shall issue, requiring the party to appear before the judges of the said court, and answer the allegation of said petition; which answer shall be received without oath: and if the party complained of shall not appear, or appearing shall deny the fact or facts stated in the said petition. Proviso
Petition to be filed three months before session of court
A copy of petition to be served, or notice given
A summons to issue

the court shall thereupon proceed to hear and determine the same: and it shall be the duty of the court to assign counsel to either party, when they are not of sufficient ability to pay an adequate compensation; and such counsel or attorney shall not charge or receive any compensation for such services.

Counsel to be assigned

Court to decree marriage dissolved, and for what causes

Sec. 3. That if upon trial, it shall appear by disinterested testimony to the satisfaction of the court, that the party complained against, had a husband or wife of a former marriage living, or was guilty of adultery, willful absence, extreme cruelty, or where either party has been, or shall hereafter be sentenced to imprisonment in the penitentiary, and shall be actually imprisoned therein for any infraction of the criminal laws of this State, or shall have been impotent at the time of marriage; then, in any such case, the court may proceed, by sentence or decree, in the same court, to pronounce the marriage between the parties dissolved, and both of them freed from the obligation of the same: *Provided*, That the confession of neither of the parties shall be received as testimony: *Provided, always*, That the dissolution of such marriage shall in no wise affect the legitimacy of the children thereof; and the court shall take such order for the distribution, care and maintenance of the children of such marriage, (if any there be,) as shall appear just and reasonable, and the circumstances of the parties may require: *Provided, however*, That the court, in their discretion, and where the evidence shall justify such decree, may grant alimony, and a divorce from bed and board, or either, instead of a dissolution of the marriage contract.

Proviso

Proof of cohabitation and reputation allowed as to marriage

Sec. 4. That in all cases where an application is made for a divorce, under the provisions of this act, proof of cohabitation and reputation of the marriage of the parties may, at the discretion of the court, be taken and received by the court as sufficient evidence of such marriage, any law, usage or custom to the contrary notwithstanding.

Divorce for husband's aggression, woman restored to lands; if for wife's, court may order part

Sec. 5. That when a divorce shall be decreed in case of the aggression of the husband, the woman shall be restored to all her lands and tenements, and be allowed out of the husband's real and personal estate, such share as the court shall think reasonable, having regard to the personal property that came to him by marriage and his estate at the time of the divorce; but if the divorce shall arise from the aggression of the wife, the court may order to her, restoration of the whole or part of the lands, tenements and hereditaments, (as to them shall appear to be just and right,) and also such share of the husband's personal property as may appear reasonable, all circumstances considered.

Wife may be barred of dower

Sec. 6. That when the cause of divorce shall arise from the aggression of the wife, she shall be barred of her right of dower, whether there be issue or not.

Wife allowed alimony

Sec. 7. That the said court shall have power to grant alimony to the wife for her sustenance during the pendency of a pe-

tion, filed for any of the causes aforesaid; and in all the cases aforesaid, where she may file a petition of alimony alone, without the prayer for the dissolution of the bonds of matrimony.

Sec. 8. That all applications for a divorce, under this act, shall be made within the county where the parties lived, at the time of their separation or application. Petition to be filed where parties lived

Sec. 9. That this act shall take effect and be in force from and after the first day of June next: and the act concerning divorce and alimony, passed January eleventh, one thousand eight hundred and twenty-two, be, and the same is hereby repealed. Effect Repeal

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 7, 1824.

AN ACT to amend the act, entitled "An act concerning divorce and alimony."

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all applications for a divorce, under the provisions of the act to which this is an amendment, shall be made within the county where the complainant actually resides at the time of making such application; and the supreme court shall hear and determine the same, whether the marriage took place, or the cause of divorce occurred, within this State, or elsewhere: Application to be made in county where complainant resides Court to hear applications for causes occurring out of this State
Provided, The petitioner shall be a bona fide resident of the county where such application is made, and at least two years a resident of the State, next before the filing of his or her petition in the clerk's office of said court.

Sec. 2. That the eighth section of the act to which this is an amendment, be, and the same is hereby repealed.

EDWARD KING,
Speaker of the House of Representatives.

SAMUEL WHEELER,
Speaker of the Senate.

December 31, 1827.

AN ACT for the maintenance and support of illegitimate children.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That on complaint made to any justice of the peace in this State, by any unmarried woman resident therein, who shall hereafter be delivered of a bastard child, or being pregnant with a child, which, if born alive, may be a bastard, accusing Warrant may be issued when unmarried woman has been delivered of, or is pregnant with, bastard child

Proceeding there
on

on oath or affirmation any person of being the father of said child, the justice shall take such accusation in writing, and thereupon issue his warrant, directed to the sheriff, coroner or constable of any county of this State, commanding him forthwith to bring such accused person before said justice, to answer to such complaint; and on return of such warrant, the justice, in the presence of the accused person, shall examine the complainant, under oath, respecting the cause of her complaint: and such accused person shall be allowed to ask the complainant, when under oath, any questions he may think necessary for his justification; all of which questions and answers, together with every other part of the examination, shall be reduced to writing by the justice of the peace: and it, on such examination, the party accused shall pay, or secure to be paid, to the complainant, such sum or sums of money or property, as she may agree to receive in full satisfaction; and shall further give bond to the overseers of the poor of the township in which said complainant shall reside, and their successors in office, conditioned to save such township free from all charges towards the maintenance of said child; then, and in that case, the justice shall discharge the party accused out of custody, on his paying the costs of prosecution: *Provided*, That the agreement aforesaid shall be made or acknowledged by both parties in the presence of the justice, who shall thereupon enter a memorandum of the same upon his docket.

Overseers of the
poor may prosecute
suit against
putative father

Sec. 2. That when any woman has a bastard child, and neglects to bring a suit for its maintenance, or commences a suit and fails to prosecute to final judgment, the overseers of the poor, in any township interested in the support of any such bastard child, where sufficient security is not offered to save the township from expense, may bring a suit in behalf of the township, against him who is accused of begetting such child, or may take up and prosecute a suit begun by the mother of the child.

Justice may order
putative father
to enter into
recognizance,
who, failing may
be committed

Sec. 3. That in case such accused person does not comply with the provisions in the first section of this act contained, the justice to whom such complaint was made, shall bind such person in a recognizance to appear at the next court of common pleas, with sufficient security, in a sum not less than two hundred dollars, nor more than five hundred dollars, for the benefit of the township in which such bastard child shall be born, to answer such accusation, and to abide the order of said court thereon; and on neglect or refusal to find such security, the justice shall cause him to be committed to the jail of the county, there to be held to answer to such complaint.

The bonds may
be renewed at
court

Sec. 4. That if, at the time of such court, the woman be not delivered, or be unable to attend, the court shall order the renewal of the bonds of recognizance, that the accused person shall be forthcoming at the next court after the birth of the child, at which the mother of said child shall be able to attend;

and the continuance of such bonds shall be entered by order of said court, unless the security shall object thereto, and shall have the same force and effect as a recognizance taken in court, for that purpose.

Sec. 5 That when such accused person shall plead not guilty to such charge, before the court to which he is recognized, the court shall order the issue to be tried by a jury: and at the trial of such issue, the examination before the justice shall be given in evidence; and the mother of the bastard child shall be admitted as a competent witness, and her credibility be left to the jury: *Provided always*, That no woman shall be admitted as a witness as aforesaid, who has been convicted of any crime which would by law disqualify her from being a witness in any other case: and on the trial of the issue, the jury shall, in behalf of the man accused, take into consideration any want of credibility in the mother of the bastard child; also, any variations in her testimony before the justice and that before the jury; and also, any other confession of her at any time, which does not agree with her testimony, or any other pleas or proofs made and produced on behalf of such accused person.

On plea, of not guilty, issue to be tried by jury

Mother competent witness

Proviso

Sec. 6. That in case the jury find the defendant guilty, or such accused person, before the trial, shall confess in court that the accusation is true, he shall be judged the reputed father of such child, and shall stand charged with the maintenance thereof, in such a sum or sums as the court shall order and direct, with payment of costs of prosecution; and the court shall require the reputed father to give security to perform the aforesaid order: and in case the said reputed father shall neglect or refuse to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the county, there to remain till he shall comply with the order of the court: *Provided*, That such putative father, confined in prison for not complying with the sentence and order of the court, as in this section provided, shall be entitled to the benefit of the prison rules, and of the act for the relief of insolvent debtors, in the same manner, and upon the same principles, as persons imprisoned for debt.

Father found guilty, or confessing, to stand charged with maintenance and give security, or be committed

Proviso

Sec. 7. That the act, entitled "An act for the maintenance and support of illegitimate children," passed February twentieth, one thousand eight hundred and five; and "An act, in addition to the 'Act to provide for the maintenance and support of illegitimate children,'" passed December twelfth, one thousand eight hundred and twenty; be, and the same are hereby repealed.

Acts repealed

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,

Speaker of the Senate.

February 2, 1824.

APPRENTICES AND SERVANTS.

AN ACT concerning Apprentices and Servants.

Minors may be bound to service or apprenticeship

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That any male person within the age of twenty-one, or female person within the age of eighteen years, may be bound until they arrive at those ages respectively, or for any shorter period, to serve as a clerk, apprentice or servant, in manner herein provided.

Township trustees may bind out poor children

Sec. 2. That the trustees of townships may bind out any orphan destitute child, or the child of any person who shall not provide for such child.

By whom the indenture must be signed and sealed

Sec. 3. That the indenture or covenant of service, shall be signed and sealed by the father; or in case of the death or inability of the father, by the mother or guardian; or in case of an orphan or destitute child, by the trustees of the township, of the one part, and by the master or mistress, of the other part.

Age of apprentice must be stated in indenture

Sec. 4. That the indenture or covenant of service, shall contain a statement of the age and time of service of the minor, and if such age shall be unknown, then it shall be inserted according to the best information; which age shall, in relation to the term of service, be deemed and taken as the true age of such minor.

What covenants indenture must contain

Sec. 5. That the indenture or covenant, by which any minor may be bound, shall contain, in case of a female bound to serve for four years or more, a covenant on the part of the master or mistress, to teach, or cause such minor to be taught, to read and write, and also the four first rules of arithmetic; and in case of a male bound to serve five years or more, to read and write, and so much arithmetic as will include the single rule of three, if such minor can by law be received into and educated in any common school: and in all cases, at the expiration of the term of service, to furnish the said minor with a new bible, and at least two suits of common wearing apparel: and all money or property stipulated to be paid by the master or mistress, shall be secured to, and for the sole use and benefit of the minor.

Indenture to be recorded; when and by whom

Sec. 6. That it shall be the duty of the master or mistress, to cause the indenture or covenant of service, to be recorded within three months from the execution thereof, by the clerk of the township, recorder of the incorporated town or city, where the master or mistress resides; and on failure so to do, the said clerk, apprentice or servant, shall be discharged from his or her service. and the master or mistress remain liable for the payment of all property stipulated to be paid by his or her covenants.

On failure, apprentice discharged

Sec. 7. That it shall be the duty of the clerk or recorder to record all indentures or covenants of service, in a book to be by him provided for that purpose; and he shall indorse the date of the receipt, and the time of recording, and shall furnish cer-

Duty of clerk, etc., in recording indentures

tified copies, when required: for which service he shall be entitled to receive ten cents for each hundred words, to be paid by the master or mistress; or in case a certified copy is required, to be paid by the person requiring the copy; and a certified copy of the record of indenture shall be prima facie evidence of the existence and stipulations of said indenture: and any clerk or recorder who shall neglect or refuse to comply with the provisions of this act, shall forfeit and pay any sum not exceeding one hundred dollars; to be recovered by action of debt in the name of the State of Ohio, before any court having cognizance thereof, for the use of the township, incorporated town or city, where such offence was committed, and shall also be liable to the party injured.

Fees for recording

Penalty for neglect of duty by clerk or recorder

Sec. 8. That it shall be the duty of all parents and guardians, and of the trustees of townships, to inquire into the usage of the minor bound as aforesaid, and to defend such minor or child, from the cruelty, neglect or breach of covenant of the master or mistress: for which purpose such parent, guardian, trustees or minor, by his or her next friend, may complain against such master or mistress, before any justice of the peace in the township where such master or mistress resides; and such justice of the peace shall summon such master or mistress forthwith to appear before him, and if he can reconcile the parties to each other, he shall make such order therein, as the equity and justice of the case may require.

Duty of parents, guardians, etc., to inquire into usage of apprentices

May complain to justice, etc.

Sec. 9. That if said justice shall be unable to settle and accommodate the difference in dispute between the parties, he shall issue a venire to any constable of the township, to summon five disinterested freeholders, to be therein named, to meet at a time and place, certain, not exceeding three days thereafter; and the jurors, or such other persons as the justice may appoint, in case of their failure to attend, when met and qualified, shall proceed to hear the evidence in the case: and if they find such master or mistress guilty of a breach of his or her indenture or covenant, or of neglect or refusal to furnish necessary food or clothing, or of cruelty towards such minor, they shall render their verdict in writing accordingly, and assess the damages such minor or child may have sustained.

Jury of five may be impaneled to try the complaint

Sec. 10. Whereupon, the justice shall enter the verdict in his docket, and shall render judgment thereon, for the damages so found, and costs, against said master or mistress, and award execution accordingly; and the indenture or covenant of service shall be void from the rendition of judgment: but if the jury shall find the defendant not guilty, the justice shall render judgment for costs against the parent, guardian, next friend or trustees, (where the complaint of the trustees shall be without probable cause,) as the case may be, and issue execution accordingly.

Judgment to be entered on verdict, and execution issued

If jury return "not guilty," complainant to pay costs

Sec. 11. That when the conduct and habits of the apprentice, clerk or servant, shall become immoral and dissolute, in

When apprentice becomes dis-

solate, master or mistress may complain to a justice, and jury be impaneled as before provided

disregard of the commands of his or her master or mistress, and their authority shall be exerted for his or her reformation without effect, the master or mistress may complain to any justice of the peace of the township, who shall give notice to the parent, guardian or trustees; and such proceedings shall be had, as to summoning and impanneling a jury, as are provided in the ninth section of this act: and if upon such investigation, the said jury shall be of opinion that said master or mistress should be discharged from his or her covenants, they shall certify the same in writing to said justice, who shall enter the same upon his docket; and thereupon, the said indenture shall be void: but no judgment for costs shall be entered against any parent, guardian or trustee, but the same shall be paid (except the witnesses for the minor,) by the master or mistress.

Fees of witnesses, jurors, etc.

Sec. 12. That the jurors and witnesses summoned and attending under this act, shall be allowed fifty cents each per day, and the justices and constable such fees as are allowed by law for similar services.

Penalty for enticing away an apprentice or servant

Sec. 13. That every person who shall counsel, persuade, entice, aid or assist any clerk, apprentice or servant, to run away or absent himself or herself, from the service of his or her master or mistress, shall forfeit and pay a sum not exceeding one hundred dollars, to be sued for and recovered by action of debt, with costs, by such master or mistress, before any justice of the peace having cognizance thereof.

Penalty for harboring or concealing a runaway apprentice, etc.

Sec. 14. That every person who shall entertain, harbor or conceal any clerk, apprentice or servant, knowing such clerk, apprentice or servant to have run away, shall forfeit and pay to such master or mistress triple damages; to be recovered in an action on the case before any court having competent jurisdiction thereof.

For what causes master or mistress may sue apprentice, etc.

Sec. 15. That if any clerk, apprentice or servant, shall be found guilty under the eleventh section of this act, or shall absent himself or herself without leave first obtained, from the service of his or her master or mistress, or shall runaway, so that said master or mistress shall be deprived of his or her services, during the remainder of the term of service, or any part thereof; the master or mistress may bring and maintain an action on the case, in any court having cognizance thereof, against such clerk, apprentice or servant, for the damages that such master or mistress may have sustained thereby.

Parent, etc., not liable without a covenant for individual liability

Sec. 16. That no parent, guardian or trustee, shall be liable upon any covenant contained in any indenture or covenant of service, unless the same shall contain an express covenant therein, that the said parent, guardian or trustee is made individually liable.

Indentures heretofore executed, not affected by this act

Sec. 17. That all indentures or covenants of service, heretofore executed in conformity to the provisions of the laws in force at the time of their execution, shall be as valid as if executed according to the provisions of this act, and the obligations incur-

red, or rights accruing, under said laws, shall be in no wise affected by this act.

Sec. 18. That the act, entitled "An act concerning apprentices and servants," passed the twenty-third of February, eighteen hundred and twenty-four, be, and the same is hereby repealed. Act repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 8, 1831.

AN ACT to regulate Black and Mulatto persons.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That from and after the first day of June next, no black or mulatto person shall be permitted to settle or reside in this State, unless he or she shall first produce a fair certificate from some court within the United States, of his or her actual freedom; which certificate shall be attested by the clerk of said court, and the seal thereof annexed thereto by the said clerk. Persons of color to produce certificate of freedom

Sec. 2. That every black or mulatto person residing within this State, on or before the first day of June, one thousand eight hundred and four, shall enter his or her name, together with the name or names of his or her children, in the clerk's office, in the county in which he, she or they reside, which shall be entered on record by said clerk; and thereafter the clerk's certificate of such record, shall be sufficient evidence of his, her or their freedom: and for every entry and certificate, the person obtaining the same shall pay to the clerk twelve and a half cents: *Provided, nevertheless,* That nothing in this act contained, shall bar the lawful claim to any black or mulatto person. To enter their names in clerk's office

Sec. 3. That no person or persons, residents of this State, shall be permitted to hire, or in any way employ, any black or mulatto person, unless such black or mulatto person shall have one of the certificates as aforesaid, under pain of forfeiting and paying any sum not less than ten, nor more than fifty dollars, at the discretion of the court, for every such offence; and one half thereof for the use of the informer, and the other half for the use of the State; and shall moreover pay to the owner, if any there be, of such black or mulatto person, the sum of fifty cents for every day he, she or they shall in any wise employ, harbor or secrete such black or mulatto person; which sum or sums shall be recoverable before any court having cognizance thereof. Citizens not permitted to hire colored persons, unless they produce certificate of freedom

Sec. 4. That if any person or persons shall harbor or se-

Persons harboring, or secreting, or preventing owners from taking, punished
 create any black or mulatto person, the property of any person whatever, or shall in any wise hinder or prevent the lawful owner or owners from retaking and possessing his or her black or mulatto servant or servants, shall, upon conviction thereof, by indictment or information, be fined in any sum not less than ten, nor more than fifty dollars, at the discretion of the court; one half thereof for the use of the informer, and the other half for the use of the State.

To have certificate recorded

Sec. 5. That every black or mulatto person who shall come to reside in this State, with such certificate as is required in the first section of this act, shall, within two years, have the same recorded in the clerk's office, in the county in which he or she means to reside, for which he or she shall pay to the clerk twelve and a half cents; and the clerk shall give him or her a certificate of such record.

Owner of slaves may apply to an associate judge or justice.

Sec. 6. That in case any person or persons, his or their agent or agents, claiming any black or mulatto person, that now are, or hereafter may be, in this State, may apply, upon making satisfactory proof that such black or mulatto person or persons is the property of him or her who applies to any associate judge or justice of the peace within this State, the associate judge or justice is hereby empowered and required, by his precept, to direct the sheriff or constable to arrest such black or mulatto person or persons, and deliver the same, in the county or township where such officers shall reside, to the claimant or claimants, or his or their agent or agents; for which service, the sheriff or constable shall receive such compensation as they are entitled to receive in other cases, for similar services.

Persons not to remove negroes, etc. without proving property

Sec. 7. That any person or persons who shall attempt to remove, or shall remove from this State, or who shall aid and assist in removing, contrary to the provisions of this act, any black or mulatto person or persons, without first proving, as herein before directed, that he, she or they is, or are legally entitled so to do, shall, on conviction thereof before any court having cognizance of the same, forfeit and pay the sum of one thousand dollars; one half to the use of the informer, and the other half to the use of the State; to be recovered by action of debt, qui tam, or indictment; and shall moreover be liable to the action of the party injured.

ELIAS LANGHAM,

Speaker of the House of Representatives.

NATHANIEL MASSIE,

Speaker of the Senate.

January 5, 1804.

AN ACT to amend the last named act.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio, That no negro or mulatto person shall be permitted to*

emigrate into, and settle within this State, unless such negro or mulatto person shall, within twenty days thereafter, enter into bond with two or more freehold sureties, in the penal sum of five hundred dollars, before the clerk of the court of common pleas of the county in which such negro or mulatto may wish to reside, (to be approved of by the clerk,) conditioned for the good behavior of such negro or mulatto, and moreover to pay for the support of such person, in case he, she or they should thereafter be found within any township in this State, unable to support themselves; and if any negro or mulatto person shall migrate into this State, and not comply with the provisions of this act, it shall be the duty of the overseers of the poor of the township where such negro or mulatto person may be found, to remove immediately such black or mulatto person, in the same manner as is required in the case of paupers.

Negroes &c. not to settle in this state without giving bonds.

Condition

Not complying. to be removed

Sec. 2. That it shall be the duty of the clerk before whom such bond may be given as aforesaid, to file the same in his office, and give a certificate thereof to such negro or mulatto person; and the said clerk shall be entitled to receive the sum of one dollar for the bond and certificate aforesaid, on the delivery of the certificate.

Clerk to file bond and give a certificate

Fees

Sec. 3. That if any person, being a resident of this State, shall employ, harbor or conceal any such negro or mulatto person aforesaid, contrary to the provisions of the first section of this act: any person so offending, shall forfeit and pay for every such offence, any sum not exceeding one hundred dollars, the one half to the informer, and the other half for the use of the poor of the township in which such person may reside; to be recovered by action of debt, before any court having competent jurisdiction; and moreover be liable for the maintenance and support of such negro or mulatto, provided he, she or they, shall become unable to support themselves.

Residents of this state shall not employ, harbor or conceal negroes, contrary to this act

Sec. 4. That no black or mulatto person or persons shall hereafter be permitted to be sworn or give evidence in any court of record, or elsewhere, in this State, in any cause depending, or matter of controversy, where either party to the same is a white person; or in any prosecution which shall be instituted in behalf of this State against any white person.

Not permitted to give evidence when either party is white

Sec. 5. That so much of the act, entitled "An act to regulate black and mulatto persons," as is contrary to this act, together with the sixth section thereof, be, and the same is hereby repealed.

Part of an act repealed

This act shall take effect and be in force from and after the first day of April next.

Effect

ABRAHAM SHEPHERD,
Speaker of the House of Representatives.
THOMAS KIRKER,
Speaker of the Senate.

January 25, 1807.

KIDNAPPING.—GAMING.

AN ACT to prevent Kidnapping.

Seizing free
black or mulatto
with intent to
transport, prohib-
ited

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That no person or persons, under any pretence whatever, shall, by violence, fraud or deception, seize upon any free black or mulatto person within this State, and keep such free black or mulatto person in any kind of restraint or confinement, with intent to transport such black or mulatto person out of the State.

Property in black
or mulatto to be
established before
judge or justice,
before carried out of
the State

Sec. 2. That no person or persons shall in any manner attempt to carry out of this State, or knowingly be aiding in carrying out of this State, any black or mulatto person, without first taking such black or mulatto person before some judge or justice of the peace, in the county where such black or mulatto person was taken, and there, agreeably to the laws of the United States, establish by proof, his or their property in such black or mulatto person.

Offender under
the provisions of
this act, how pen-
alized

Sec. 3. That any person or persons offending against the provisions of this act, shall, on conviction thereof, by indictment in the court of common pleas in any county in this State, be deemed guilty of a misdemeanor, and shall be confined in the penitentiary, at hard labor, for any space of time, not less than three, nor more than seven years, at the discretion of the court.

Act repealed

Sec. 4. That the act, entitled "An act to prevent kidnapping," passed January twenty-fifth, eighteen hundred and nineteen, be, and the same is hereby repealed.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 15, 1831.

AN ACT for the prevention of Gaming.

All gaming con-
tracts void

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all promises, agreements, notes, bills, bonds, or other contracts, mortgages or other securities, when the whole, or any part of the consideration of such promise, agreement, conveyance or security, shall be for money or other valuable thing whatsoever, won or lost, laid, staked or betted, at or upon any game or games, of any kind, or under any denomination or name whatsoever, or upon any horse race or cock fight, sport or pastime, or on any wager, or for the repayment of money lent or advanced at the time of any game, play, bet or wager, for the purpose of being laid, betted, staked or wagered; shall be absolutely void, and of no effect.

Sec. 2. That if any person or persons, by playing at any game or games, or by means of any bet or wager, shall lose to

any other person or persons, any sum of money or other thing of value, and shall pay or deliver the same, or any part thereof, to the winner or winners; the person or persons so losing and paying, or delivering, may, at any time within six months next after said loss and payment or delivery, sue for, and recover, the money or thing of value so lost and paid or delivered, or any part thereof, from the winner or winners thereof, with costs of suit, by action of debt founded on this act; to be prosecuted in any court, or before any justice of the peace, having competent jurisdiction of the same.

Sec. 3. That in the prosecution of said action, it shall be sufficient in law, for the plaintiff to alledge that the defendant is indebted to the plaintiff, or received to the plaintiff's use, the money so lost and paid, or converted the goods won of the plaintiff to the defendant's use, whereby the plaintiff's action accrued to him, according to the form of this act, without setting forth the special matter.

Sec. 4. That if any person or persons, losing such money or thing of value as herein before described, shall not within the time specified, wit out collusion or deceit, sue, and with effect prosecute, for the money or thing of value so lost and paid or delivered, it shall be lawful for any person, by such action or suit, to sue for and recover the same, with costs of suit, against any winner or winners as aforesaid, for the use of the person prosecuting the same.

Sec. 5. That every person who, by this act, shall or may be liable to be sued for money or other thing of value, by him won as aforesaid, shall be compelled to answer upon oath, such petition or petitions in chancery filed or preferred against him, for discovering the money or things so won as aforesaid: *Provided, however,* That upon discovery and repayment of the money or other things, the person or persons discovering and repaying the same, with costs, shall be acquitted and discharged from any further or other forfeiture, punishment or penalty he or they may have incurred, for so winning such money or thing discovered and repaid.

Sec. 6. That if any person shall at any time play in any ordinary, tavern or race field, or in any booth, arbor, out-house, or other erection connected with such tavern, ordinary or race field, or at any other public place, at any game whatsoever, except games of athletic exercise, or shall bet or wager on the hands or sides of such as do play as aforesaid; every such person, upon conviction thereof, shall forfeit and pay any sum not exceeding one hundred dollars.

Sec. 7. That if any person shall play at any game whatsoever, for any sum of money or other property of any value, or shall make any bet or wager for any sum of money or other property of value; every such person shall, on conviction thereof, be fined in any sum not exceeding one hundred dollars, at the discretion of the court.

Sec. 8. That if any person or persons shall keep or exhibit, for gain, any gaming table or bank, or any gaming device or machine of any kind or description, under any denomination or name whatsoever, or if any person or persons shall keep or exhibit any billiard table, for the purpose aforesaid; the person or persons so offending shall, each, on conviction thereof, be fined in a sum not less than fifty, nor more than two hundred dollars, at the discretion of the court, for every such offence; and shall, moreover, find security, for his or their good behavior for the period of one year, in the sum of five hundred dollars.

Sec. 9. That if any person or persons shall suffer any game or games whatsoever to be played for gain, upon, or by means of any gaming device or machine, of any denomination or name, in his, her, or their house, or in any out-house, booth, arbor, or erection, of which, he, she, or they have the care or possession; the person or persons so offending shall, each, on conviction thereof, forfeit and pay a sum not less than fifty, nor more than two hundred dollars.

Sec. 10. That if any keeper or keepers of any tavern, ordinary, or other house of public resort, shall suffer any game or games whatsoever, except games of athletic exercise, to be played at, or within such tavern, ordinary or house of public resort, or in any out-house, building, or erection appendant thereto; every such keeper or keepers, shall, on conviction thereof, forfeit and pay a sum not less than fifty, nor more than two hundred dollars: and if any licensed keeper of a tavern, shall be convicted of suffering any game or games, except those of athletic exercise, in his or her house, out-house, booth, arbor or other erection; he or she, in addition to the penalty hereby imposed, shall moreover forfeit his or her license for keeping such tavern, and shall not be relicensed as a tavern keeper, for one year from the date of such conviction.

Sec. 11. That all fines and forfeitures imposed by this act, shall be recoverable, with costs, by indictment in any court of common pleas.

Sec. 12. That if any person who hath been guilty of any of the offences by this act made punishable, shall be called upon, before a grand jury, or in any court of justice, to testify in behalf of the State, touching the facts of the offence by such witness done and committed as aforesaid; the witness so called upon shall be compelled to give all the facts, in evidence, in relation to such offence: and such witness shall not be indictable or punishable for any of the offences so by him disclosed, and made punishable by this act.

Sec. 13. That the presiding judges of the courts of common pleas shall give this act in charge to the grand juries of their respective courts.

Sec. 14. That all fines and forfeitures imposed by the provisions of this act, shall be collected and paid over to the treasurer of the proper county within twenty days after the collection thereof, to be applied to county purposes.

Keepers of gaming tables to be fined, and required to give security for their good behavior

Person suffering or games upon any device in his house, etc. to be fined

Keeper of tavern etc suffering gaming in such tavern shall be fined, and if licensed, his license shall be forfeited, etc.

Prosecutions to be by indictment

Person guilty of offence under this act, may be compelled to testify touching the facts of the offence, but shall not be indicted for offence by him disclosed

This act to be given in charge to grand jury

Forfeitures to be paid into county treasury

Sec. 15. That the act, entitled "An act for the prevention of gaming," passed January fourth, eighteen hundred and twenty-four, be, and the same is hereby repealed: *Provided*, That all offences committed prior to the taking effect of this act, shall be prosecuted and punished in the same manner as if this act had never been passed. Act repealed
Proviso

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

March 12, 1831.

AN ACT to prevent Nuisances.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person or persons shall put the carcass of any dead animal into any river, creek, pond, road, street, alley, lane, lot, field, meadow, or common; or if the owner or owners thereof shall knowingly permit the same to remain in any of the aforesaid situations, to the annoyance of the citizens of this State, or any of them; every person so offending, shall, on conviction thereof, before any justice of the peace of the proper township, be fined in any sum not less than one, nor more than five dollars. Putting the carcass of dead animal into river, creek, road, &c., how punished

Sec. 2. That if any person or persons shall put any dead animal, carcass, or part thereof, into any well, or into any spring, brook or branch of running water, of which use is made for domestic purposes; every person so offending shall, on conviction thereof, be fined in any sum not less than two, nor more than forty dollars. Putting same into well, spring, &c., how punished

Sec. 3. That all fines and penalties arising under this act, shall be paid over by the justice of the peace collecting the same, within thirty days thereafter, to the treasurer of the township wherein the offence was committed; and, on failure so to do, the said treasurer shall forthwith proceed against such justice for the recovery of the same, as in other cases: and such sums, when collected, shall be subject to the order of the township trustees, for the use of said township. Fines and penalties appropriated to the use of the township

Sec. 4. That the act, entitled "An act to prevent putting dead animal carcasses into rivers, water courses, &c.," passed January the third, one thousand eight hundred and twenty-eight, be, and the same is hereby repealed. Act repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 28, 1831.

PUBLIC SHOWS:

AN ACT to regulate public shows.

Exhibitors of
shows to obtain
permit from
county auditor

Amount of as-
sessment

Proviso as to in-
corporated
towns and cities

Penalty for ex-
hibiting without
permit, and how
recovered

Money appropri-
ated to the use of
common schools

Act repealed

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That before any exhibitor or exhibitors of any traveling public show, not already prohibited by law, shall be allowed to exhibit or show any natural or artificial curiosity, or exhibition of horsemanship in a circus, or otherwise, for any price, gain or reward, he or they shall apply to the county auditor, of the county in which he or they intend to show or exhibit, for a permit; and the county auditor shall give him or them a permit, specifying the time, place or places, he or they may be allowed to show or exhibit in the county, on the person or persons thus applying paying into the county treasury the amount said county auditor may assess on him or them, for the privilege of exhibiting or showing such show; which assessment shall in no case exceed fifty dollars, nor less than ten, for each and every place at which such show shall be exhibited: *Provided*, It shall not be necessary for any exhibitor or exhibitors, as aforesaid, to obtain a permit from the county auditor, to show or exhibit in any incorporated town or city, where, by the laws or ordinances of such town or city, such exhibitor or exhibitors, may be required to obtain a permit or license from the municipal authority of said town or city.

Sec. 2. That if any person or persons shall exhibit any public show, without first having obtained the permit, according to the provisions of this act, he or they shall, for every such offence, pay the sum of one hundred dollars, to be recovered in an action of debt, at the suit of the county auditor or treasurer, or any citizen of the county, before any justice of the peace of the county in which the offence may be committed, and paid into the treasury of said county.

Sec. 3. That all moneys paid into the treasury of any county, under the provisions of this act, shall be appropriated to the support of common schools in said county; and it shall be the duty of the auditor of such county, annually to apportion the same to the respective school districts in his county, according to the number of youth therein, at the same time that he apportions the school tax to said districts, and shall draw on the treasurer in the same manner that he is directed by law to draw for the school tax.

Sec. 4. That the act to regulate public shows, passed December 31, 1827, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 28, 1831.

AN ACT regulating Ferries,

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That no person shall be permitted to keep a ferry across any stream running through or bounding on any county in this State, without having first obtained a license from the court of common pleas of the proper county for that purpose, as herein-after provided.

No person to keep a ferry without license from c. p.

Sec. 2. That the person applying for such license, shall produce satisfactory evidence to the court, by the affidavit of the applicant, or otherwise, of his having given notice, by advertisement set up in at least three public places in the township, or neighborhood, where the ferry is proposed to be kept, twenty days prior to the sitting of the court, of his intention to apply to such court for such license to keep such ferry.

Notice of application for license, how given

Sec. 3. That the court, being satisfied that the notice hereby required has been given, that a ferry is needed at said place, and that the applicant is a suitable person to keep the same, are hereby authorized to grant to the applicant a license to keep the same for the term of one year, on the applicant's paying into the county treasury of the proper county a sum to be fixed by the court, not less than two, nor more than fifty dollars; and on the applicant's producing the county treasurer's receipt for the payment of the sum so fixed, he or she shall receive from the clerk of the court a license, under the seal of the court, for the term aforesaid; for which he or she shall pay the clerk the sum of fifty cents.

Court may grant license for one year, and fix the price

Sec. 4. That the person owning or possessing land on both sides of any stream where a ferry is proposed to be established, shall have exclusive right of a license for a ferry at such place; and when the opposite banks are owned by different persons, the right to the ferry shall be mutual: but if the owner does not apply, the court shall grant a license to any person applying for the same, except where either of the landings are not on a public highway, the consent of the owner of the ground shall first be had in writing: *Provided*, That nothing herein contained shall be so construed as to prevent any person from ferrying passengers across a small stream in high water; and the court of common pleas are hereby authorized to direct the clerk to give any person a permit for that purpose, when, in their opinion, the stream is too small to justify the expense of a license: *And provided also*, When any person shall apply for a renewal of his license, at the same place where he kept the preceding year, the same may be granted or renewed, without notice or petition.

To whom license for ferry may be granted

Provido as to small streams in high water

Renewal of license

Sec. 5. That when a license shall expire in vacation, and the person who obtained the same shall procure a renewal, the latter license shall include the time from the expiration of the former, as well as the time to which it shall extend in future; and the applicant shall pay a ratable proportion for the

Provision in case of a license expiring in vacation

whole time therein mentioned; and shall thereupon be exonerated from any penalty to which he would be otherwise liable: *Provided, however,* That in all applications for a license, when objections are made, the court may grant or refuse the same, at their discretion.

Licensed ferryman to keep good boats, and give due attendance Sec. 6. That every person obtaining a license to keep a ferry, shall provide, and keep in complete repair, a good and sufficient boat for the safe conveyance of persons and property; and when the river or creek, over which the ferry is kept, is passable, shall, with a sufficient number of hands to work and manage the boat, give due attendance from day light in the morning, until dark in the evening; and shall, moreover, at any hour in the night or day, (that the creek or river can be passed,) when called upon for that purpose, convey the United States' mail, or other public express, across said ferry: and if any person, having obtained a license as aforesaid, shall fail or neglect to perform the duties herein enjoined, or any of them, the person so offending shall forfeit and pay, for every such offence, a sum not exceeding five dollars; to be recovered before any justice of the peace of the proper township, at the suit of any person prosecuting for, and making due proof, of such failure or neglect: and if any keeper of a ferry, as aforesaid, shall demand and receive a higher rate or sum for ferriages, than shall be allowed by the court of common pleas of the county wherein such ferry is kept, the person so offending shall forfeit and pay, for every such offence, a fine not exceeding ten dollars; recoverable before any justice of the peace of the proper township, by any person making due proof thereof; to be disposed of as hereinafter provided.

Penalty for neglect

Penalty for taking illegal ferriage

When court refuse to renew license, how ferryman may be exonerated from penalty Sec. 7. That should the court refuse to renew the license of any ferryman, he shall be exonerated from the penalties of this act, by paying into the county treasury previous to any prosecution having been commenced against him, such sum for the time which may have elapsed between the expiration of his license, and the next term of the court of common pleas, as shall bear a ratable proportion to the amount charged for the previous year.

Court to fix the rate of ferriage Sec. 8. That the court of common pleas, at the same time they grant a license to keep a ferry, shall also fix the rate of ferriages which the ferry keeper may demand and receive for the transportation of persons and property: and it shall be the duty of the clerk of said court, to furnish every person on taking out a license to keep a ferry, with a list of the rate of ferriages; which list the ferry keeper shall post up at the door of his ferry house, or some conspicuous place convenient to said ferry.

List of rates to be posted up near the ferry

Clerk to furnish grand jury with list of licenses Sec. 9. That every clerk of the court of common pleas shall, on the first day of the term of each court, deliver to the grand jury an accurate list of all persons holding licenses within his county: and it shall be the duty of the president judge

to give this act in charge to the grand jury; whose duty it shall be to make inquiry, and give information, of any violation thereof, except in cases where jurisdiction is given to justices of the peace.

Sec. 10. That if any person shall keep a ferry without being duly authorized, the person so offending shall forfeit and pay a sum not exceeding thirty dollars; to be recovered by indictment. Keeping ferry without license, how punished

Sec. 11. That if any justice of the peace, or other officer, shall neglect or fail to comply with the requisitions of this act, the person so offending shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars, at the discretion of any justice of the peace before whom the same may be recovered, for the use of the county. Officer failing to comply with this act, to be fined

Sec. 12. That all actions or suits brought under the provisions of this act, shall be in the name of the State of Ohio; and the court taking cognizance thereof, shall keep a record of all fines and forfeitures recovered under the same: and sheriffs, constables and other officers, shall pay all moneys within thirty days after receiving the same, into the county treasury: and justices of the peace and clerks of courts, before whom any fine is recovered, shall present an accurate account thereof to the county auditor, on or before the first day of June, annually: and clerks of courts shall, in like manner, return a list of all licenses by them issued, and to whom, and the price of each respectively: and it shall be the duty of the county auditor to inform and prosecute all offenders against this statute; especially such offences as are cognizable before justices of the peace. Money collected, to be paid to county treasury in 30 days

Sec. 13. That the act, entitled "An act granting licenses and regulating ferries, taverns and stores," passed February 6th, 1824; and all other acts and parts of acts, inconsistent with the provisions of this act, be, and the same are hereby repealed: saving to all cities and towns corporate, the rights and powers granted by the act or acts incorporating the same; saving also all licenses granted before this act takes effect, and which shall not have then expired. Duty of auditor

This act to be in force and take effect from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MURPHY,
Speaker of the Senate.

February 28, 1831.

AN ACT fixing the rate of toll for grinding.

Sec. 1. Be it enacted by the General Assembly of the State of Ohio, That the owner or occupier of all grist mills within this

Rates of toll

State, shall be entitled to the one tenth part of all wheat, rye, or other grain, ground and bolted; and the one twelfth part of all rye, malt, buckwheat, ground or chopped only; and the one eighth part of all corn, ground in said mills: *Provided*, That the owner or occupier of any horse mill, shall, in like manner, be entitled to the one eighth part, but may take the one fourth part of all grain ground, or ground and bolted by said horse mill, when the owner or occupier thereof finds horses or team to grind the same.

Millers account
able for grain,
&c.

Sec. 2. That the owner or occupier of every mill aforesaid, shall be accountable for the safe keeping of all grain received in said mill for the purpose of being ground therein; and shall deliver the same when ground, or ground and bolted, (as the case may be,) with the bag or bags, cask or casks, which were delivered in said mill with the grain, to the owner, when called for: *Provided*, That the bag or bags, cask or casks, left as aforesaid, be distinctly marked with the christian and surnames of the owner or owners thereof: *Provided, also*, That nothing herein contained shall be so construed as to charge or make accountable any owner or occupier of any mill, for the loss of any grain, bag or bags, cask or casks, which shall happen, by robbery, fire or other accident, without the fault or neglect of such owner or occupier, or that of any miller employed by such owner or occupier.

Proviso, bags
must be markedPenalty for tak-
ing unlawful toll

Sec. 3. That if the owner or occupier of any mill, their representative, agent or miller, shall take a greater proportionate quantity of toll than is hereinbefore authorized, and be duly convicted thereof, before any court having jurisdiction of the same, shall be fined for every such offence, in any sum not exceeding twenty dollars, at the discretion of the court; one half to the township, and the other half to the person prosecuting; and shall moreover be liable, at the suit of the party injured, for damages.

Act repealed

Sec. 4. That the act, entitled "An act fixing the rate of toll for grinding," passed January twelfth, one thousand eight hundred and five, be, and the same is hereby repealed.

This act shall take effect and be in force from after the first day of June next.

JOSEPH RICHARDSON,

Speaker of the House of Representatives.

ALLEN TRIMBLE,

Speaker of the Senate.

February 14, 1824.

AN ACT for regulating measures.

Commissioners
to provide a half

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That the county commissioners of each county in this State, are hereby required and directed to cause to be made,

for each county, one half bushel measure, which shall contain one thousand seventy-five and two tenths solid inches; which shall be kept in the county seat, and shall be called, the standard.

bushel, which shall be the standard
Where kept

Sec. 2. That the commissioners of the respective counties shall appoint a person, in each county seat, to keep the standard measure, and shall procure a seal for the keepers of said standard measures; which keeper shall take an oath or affirmation, for the faithful discharge of the trust reposed in him; and all persons desirous of trying their measures, may resort to the aforesaid county standard for that purpose: and the person appointed to keep said standard shall, if he find them true, and exactly to correspond, seal them with his seal; and the person so appointed shall be entitled to receive for trying and sealing each half bushel, as aforesaid, the sum of twenty-five cents.

Also, a person to keep the said standard, who shall take an oath

His duty and compensation

Sec. 3. That three months after the appointment of a person to keep the said county standard shall have been made known, as aforesaid, every person who shall knowingly sell any commodity whatever, by a measure that shall be less than the said county standard, or shall keep any measure larger for the purpose of buying, shall, for every such offence, forfeit and pay a sum not exceeding five dollars, for the use of the township; to be recovered by action of debt, before any justice of the peace for the township in which the offence shall be committed.

Persons offending against this act, how punished

Sec. 4. That the expense accruing under the provisions of this act, shall be paid out of the respective county treasuries, on the order of the commissioners.

Expense to be paid by county

This act to be in force from and after the first day of June next.

EDWARD TIFFIN,
Speaker of the House of Representatives.
THOMAS KIRKER,
Speaker of the Senate.

January 22, 1811.

AN ACT fixing the rate of interest.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all creditors shall be entitled to receive interest on all money, after the same shall become due, either on bond, bill, promissory note, or other instrument of writing, or contract for money or property, on all balances due on settlement between parties thereto, or money withheld by unreasonable and vexatious delay of payment; and on all judgments obtained, from the date thereof; and on all decrees obtained in any court of chancery, for the payment of money, from the day specified in the said decree for the payment thereof; or if no day be specified, then from the day of the entering thereof, until

six per centum interest allowed

PROTESTED BILLS OF EXCHANGE.

such debt, money or property, is paid; at the rate of six per centum per annum, and no more.

Act repealed Sec. 2. That the act fixing the rate of interest, and for the prevention of usury, passed December twenty ninth, eighteen hundred and four, be, and the same is hereby repealed.

This act shall be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 12, 1824.

AN ACT ascertaining damages on Protested Bills of Exchange.

Damages on protested bills of exchange, twelve per cent. if foreign, and six per cent. if inland
Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any bill of exchange shall be drawn for the payment of any sum of money, and such bill shall be legally protested for non-acceptance or non-payment, the drawer or drawers, indorser or indorsers, shall be subject to the payment of twelve per cent. damages thereon, if drawn on any person or persons, or body corporate, without the jurisdiction of the United States; and six per cent. damages thereon, if drawn on any person or persons, or body corporate, within the jurisdiction of the United States, and without the jurisdiction of this State; and the bills shall, in all cases, bear an interest of six per cent., from the date of the protest until the money therein drawn for shall be fully satisfied and paid.

Drawers or indorsers may be sued jointly or severally
Sec. 2. That it shall be lawful for any person or persons, having a right to demand any sum of money, upon any protested bill of exchange as aforesaid, to commence and prosecute an action for principal, damages, interest and charges of protest; against the drawers or indorsers, jointly or severally, or against either of them separately; and judgment shall, and may be given, for such principal, damages and charges, and interest upon such principal, after the rate aforesaid, to the time of such judgment, together with costs of suit.

Act repealed Sec. 3. That "An act concerning bills of exchange," passed January thirty first, eighteen hundred and ten, be, and the same is hereby repealed; saving to individuals and to companies, all rights acquired under said act.

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

February 15, 1831.

AN ACT to regulate Judicial proceedings where Banks and Bankers are parties, and to prohibit issuing Bank Bills of certain descriptions.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That in all actions brought against any bank or banker, whether of a public or private character, to recover money due from such bank or banker, upon notes or bills by him or them issued, the plaintiff may file his declaration for money had and received, generally; and upon trial, may give in evidence, to support the action, any notes or bills of such bank or banker, which such plaintiff may hold at the time of trial, and may recover the amount thereof, with interest from the time the same shall have been presented for payment, and payment thereof refused, or from the time that such bank or banker shall have ceased and refused to redeem his notes, with good and lawful money of the United States.

Sec. 2. That when any of the partners or stockholders of any bank or banking company shall live without the county where the said bank or banking company is or was established, it shall be lawful for the plaintiff, in any action brought in pursuance of this act, to issue summons into any other county in this State, for the purpose of making such partner or stockholder a party to said action: and after judgment in said action, in favor of said plaintiff, he may sue out a scire facias against any such partner or stockholder, who may not have been made a party to the suit aforesaid, directed to any county in this State, to make such partner or stockholder a party to said judgment; and on return thereof, duly served, the court shall make such partner or stockholder a party defendant to said judgment, unless good cause be shown to the contrary.

Sec. 3. That a writ of fieri facias shall be the first process upon a judgment obtained against any bank or banker; upon which the sheriff or other officer shall enter the banking house of the judgment debtor, and demand payment of the amount of such judgment, interest and costs; and if payment be not immediately made, the officer shall levy on the bank notes, money or other chattels which he may find in the banking house or elsewhere, the property of the judgment debtor, and shall proceed thereon as in other cases.

Sec. 4. That if the bank or banker against whom judgment is had, shall have no banking house at which such bank or banker transacts banking business, or if no chattel property can be found whereon to make a levy, or if the property taken shall not be sufficient to satisfy the judgment, interest and costs,—the officer shall make return thereof upon the writ; and upon such return being filed in the clerk's office of the court of common pleas of the county, the plaintiff may thereupon demand a writ of attachment against the rights and credits of such bank or banker: and the clerk shall thereupon issue such writ, directed to any proper officer in the county

Provide

Provide

Cashiers, &c.
may be summoned
on attachment

Defendants may
be examined on
oath

No pleadings

from which such writ may have issued, which writ shall recite the judgment, execution, and the return upon which it is founded; and the officer receiving such writ, shall summon, as a garnishee, any debtor to such bank or banker, who may be within his county, to appear before the court of common pleas, at the return of such writ, and answer such matter, touching any debt he may owe such bank or banker, as may be put to him: *Provided always*, That those persons who have been, or are at the time of such service, directors of the bank against which judgment shall have been entered, and remains unsatisfied, shall, in all cases, be first summoned as garnishees: and from the time of making such service, all moneys due and owing to the bank or banker in the writ mentioned, shall be held and considered as due to the judgment creditor until his judgment be satisfied; and no payments made thereafter, to the bank or banker with whom the debt was contracted, shall be credited to the person making the same, against the plaintiff in attachment; nor shall the stock owned by any debtor to the bank or banker, against whom proceedings are had under this act, be allowed as a set off or liquidation of all or any part of the debts, as against the judgment creditor: *And provided also*, That no person who may be summoned as garnishee, under the provisions of this section, shall be obliged to pay the debt due by him to any bank or banker, and which may be attached in his hands, in any different or other way than he would have been obliged to pay the same to the original creditor or creditors; and he shall be allowed the same discounts, credits and offsets, which he would have been allowed if the claim against him had been settled in a due course of law, in favor of the original creditor or creditors.

Sec. 5. That the cashier, clerk, or other officer having charge of the funds of such bank or banker, may, in like manner, be summoned upon such attachment; and from the time of the service of such summons, all the funds of such bank or banker shall be bound in law for the payment of the judgment and costs in the writ mentioned.

Sec. 6. That if the persons summoned, or any of them, shall appear on the return of the writ of attachment, the court shall proceed to examine each one separately, upon oath or affirmation, touching the amount he was indebted to the bank or banker upon the day the service was made; and shall render judgment against each separately, without declaration or other pleading, for the amount confessed to be due on that day, except in cases when the persons summoned, or any number of them, are responsible as principals, securities or indorsers for the same debt, in which case there shall be a joint judgment against them for the amount: but in case of any cashier, clerk or other officer holding the funds of such bank or banker, if such cashier, clerk or other officer shall deliver into court all the funds of such bank or banker, which he states on oath or

affirmation to have been in his possession on the day of service of the process upon him, he shall be discharged from all further process or proceedings; and the funds so delivered up, shall be disposed of in such manner as the court may direct, to be applied to the payment of the judgment, interest and costs upon which the attachment issued, as well as the costs that may have accrued upon the attachment.

Sec. 7. That no judgment upon attachment, shall be rendered for costs against the person summoned; and when the debt from the person summoned, to the bank or banker, is not due until a future day, the time of payment shall be specified in the judgment, and no execution shall issue until after that day: in every other respect execution shall be had upon such judgment, as in other cases.

Sec. 8. That for all moneys paid on an attachment under this act, the debtor or debtors paying the same, shall have credit against the bank or banker to whom the same was due, for the amount; and if any overplus shall remain in the hands of the officer, after the payment of the original debt, interest and costs, and all the costs of the attachment, it shall be paid over to such bank or banker, or their order: and if a sufficient sum to satisfy the whole debt and costs as aforesaid, shall not be made on a writ of attachment, an alias writ of attachment may issue, upon which the proceedings shall be the same as on the first writ.

Sec. 9. That when any sum of money due and owing to any bank or banker, shall be secured by indorsement on the bill, note or obligation for the same, it shall be lawful for such bank or banker to bring a joint action against all the drawers or indorsers; in which action, the plaintiff or plaintiffs may declare against the defendants for money lent and advanced, and may obtain a joint judgment and execution for the amount found to be due; and each defendant may make the same separate defence against such action, either by plea or upon trial, that he could have made against a separate action: and if in the case herein provided for, the bank or banker shall institute separate actions against the drawers and indorsers, such bank or banker shall recover no costs: *Provided always*, That in all suits or actions prosecuted by a bank or banker, or persons claiming as their assignees, or under them, in any way for their benefit, the sheriff, upon any execution in his hands in favor of such bank or banker, their or his assignee as aforesaid, shall receive the note or notes of such bank or banker, from the defendant, in discharge of the judgment: and if such bank or banker, their or his assignee, or other person suing in trust for the use of such bank or banker, shall refuse to receive such notes from the sheriff, the sheriff shall not be liable to any proceedings whatever, at the suit, or upon the complaint, of the bank or banker, their or his assignee, as aforesaid.

Sec. 10. That it shall not be lawful for any bank or banker

No judgment for costs against defendant

Debtor to have credit with bank for money paid

Indorsed note may be jointly sued, &c.

Provided

Banks not to issue bills payable at a future day within this State, to issue notes or bills payable at a future day, and all notes or bills issued by any bank or banker within this State, shall be taken and held to be payable on demand, notwithstanding any day of payment be expressed in the body of the same.

When interest on notes shall cease Sec. 11. That when any bank or banker shall commence and continue to redeem their notes or bills with lawful money, the interest on their notes or bills shall cease from the commencement of such redemption, by their giving six weeks' previous notice, in some newspaper having a general circulation in the county where such bank or banker transacts banking business, of the time they intend to redeem their notes or bills with lawful money.

Fieri facias, et levari facias may issue Sec. 12. That any plaintiff who shall have recovered judgment against any bank or banker as aforesaid, may, at his election, sue out on such judgment, while the whole or any part thereof remains unpaid, a writ or writs of fieri facias et levari facias, by virtue of which it is hereby made the duty of the officer to whom the same is directed, to levy on the goods and chattels of such bank or banker, body politic or corporate, and to sell the same as in other cases, on execution: and if goods and chattels cannot be found sufficient to satisfy such judgment or judgments, after disposing of what may be found, in the manner aforesaid, it shall be the further duty of the said officer to levy on the lands, tenements or hereditaments, which such bank or banker, body politic or corporate, may hold by deed in fee simple, deed of trust, or mortgage deed of conveyance, or by title bond, or any other assurance whatever, and to sell the same under the restrictions and limitations hereinafter mentioned; and upon the receipt of the purchase money, to make to the purchaser or purchasers a deed, assignment, or transfer in writing therefor, therein and thereby conveying to him, her or them, all the right, title, interest and estate, which such bank or banker, body politic or corporate, had in or to the property sold, at the time the same was levied upon in manner aforesaid: and such purchaser or purchasers, after such sale, may pursue the usual legal means to foreclose the mortgage, or collect the amount due on such deed of trust, or mortgage deed of conveyance, or to reduce to possession such other estate, whether legal or equitable, as such bank or banker, body politic or corporate, might or could do, had such property not been sold.

Banks in trust for banks may be levied upon Sec. 13. That when any person shall hold any lands, tenements or hereditaments, by deed, in fee simple, deed of trust, or mortgage deed of conveyance; or by lease or title bond, or any other title or assurance whatever, in trust and for the use of such bank or banker, body politic or corporate, whether such trust be expressed in the deed or not; it is hereby made the duty of the officer holding a writ of fieri facias et levari facias against such bank or banker, body politic or corporate, after disposing of what goods and chattels may be found, in manner aforesaid, to

levy on the lands, tenements and hereditaments so held by such person or persons in manner aforesaid, in trust and for the use of such bank or banker, body politic or corporate, and to sell the same, under the restrictions and limitations hereinafter mentioned; and upon the receipt of the purchase money, to make to the purchaser a deed, therein and thereby conveying to him all the right, title, interest and estate, which such bank or banker had in or to the property sold, at the time the same was levied upon, in manner and form aforesaid: and it is hereby made the duty of the person holding such lands, tenements and hereditaments, in trust, and for the use of such bank or banker, body politic or corporate, to make to the purchaser a deed upon demand, for the property sold, therein and thereby conveying to him all the estate such person had in the property at the time the same was levied upon, in manner aforesaid; and the equitable interest of such bank or banker, body politic or corporate, to the property so sold, shall forever after be extinguished.

Sec. 14. That when any lands, tenements or hereditaments, ^{Officer to sell lands after report} held by such bank or banker, body politic or corporate, by deed of trust, or mortgage deed of conveyance, lease, title bond, or any other assurance whatever, are levied upon, in the manner pointed out in the eleventh section of this act; or when any lands, tenements or hereditaments, held by any person by deed of trust, or mortgage deed of conveyance, title bond, or any other assurance whatever, in trust, and for the use of such bank or banker, body politic or corporate, whether the trust be expressed in the deed or not, and levied upon in the manner pointed out in the twelfth section of this act, the officer who made the levy shall immediately thereafter appoint three judicious and disinterested men of his county, whose duty it shall be, under oath, to ascertain as nearly as practicable, the amount due on such deed of trust, or mortgage deed of conveyance: and for that purpose they may examine any books or papers that they may think necessary; and may also examine the mortgagor or grantor, and such other witness or witnesses as they may think necessary, under oath, which oath any one of them are hereby authorized to administer, touching the amount due on such deed of trust, or mortgage deed of conveyance, and to report in writing to said officer, under their hands and seals, within six days after their appointment, the amount they found due and owing on such deed of trust, or mortgage deed of conveyance; and upon such report being made to said officer, he shall advertise and sell said property, as nearly as may be, in the same manner pointed out for the sale of real estate, under the provisions of the act, entitled "An act regulating judgments and executions."

Sec. 15. That when any lands, tenements or hereditaments ^{shall sell for two thirds appraised value} shall be taken in execution as aforesaid, which are or shall be mortgaged, or conveyed by deed of trust, or be held by any other title or assurance whatever, to secure a sum greater than the value thereof, the interest of the mortgagee or trustee in

such lands, tenements or hereditaments, shall not be sold for less than two thirds of the appraised value thereof; and when such lands, tenements or hereditaments, are or shall be mortgaged, or conveyed by deed of trust, or any other title or assurance whatever, to secure a sum not exceeding the value thereof, the same shall not be sold for less than two thirds of the sum which shall be due on such mortgage deed, or deed of trust, on the day of sale.

Sec. 16. That where more than one tract of land is included in the deed of trust, or mortgage deed of conveyance, or held by title bond, or any other assurance whatever, it is hereby made the duty of the officer to whom any writ or writs of execution may be directed, after having ascertained the amount due on such deed of trust, or mortgage deed of conveyance, or any other title or assurance whatever, in the manner hereinbefore directed, or when the amount due has been heretofore ascertained, to summon an inquest of five judicious and disinterested men of his county, whose duty it shall be to appraise, under oath, each tract of land contained in said deed of trust, or mortgage deed of conveyance, or any other title or assurance, separately, and to report the same in writing to the said officer by whom they were summoned; whose duty it shall be, if the appraised value of such lands shall exceed the sum due on such mortgage deed, or deed of trust, or any other title or assurance, to apportion the amount found due on such deed of trust, or mortgage deed of conveyance, or other title or assurance, among the several tracts of land specified in such deed of trust, or mortgage deed of conveyance, or other title or assurance, in just proportion to their appraised value; and after having advertised and made known the time and place of sale, in manner aforesaid, to proceed and sell each tract of land contained in such deed of trust, or mortgage deed of conveyance, or other title or assurance, separately, for no less than two thirds of the amount apportioned to the same in manner aforesaid: and each of the tracts of land so sold as aforesaid, shall be liable to be redeemed by the grantor in the deed of trust, or mortgage deed of conveyance, or other title or assurance, by the payment of the amount apportioned to the same, in manner aforesaid, to the purchaser, in the same manner as if the tract had been separately mortgaged or conveyed by deed of trust, or other title or assurance; and the purchaser in like manner shall hold the same, in the same manner as if separately granted in manner aforesaid.

Sec. 17. That when lands, tenements or hereditaments are held by any bank or banker, body politic or corporate, in fee simple, in the manner pointed out in the eleventh section of this act; or when lands, tenements or hereditaments, are held by any person by deed in fee simple, in trust and for the use of such bank or banker, body politic or corporate, in the manner pointed out in the twelfth section of this act, whether such

Tracts of land to be appraised separately and be so sold

Grantor in deed of trust may redeem

Shall be sold as by act regulating judgments, &c.

trust be expressed in the deed or not, and are levied upon in the manner aforesaid; the officer levying shall cause the property so levied upon, to be appraised, advertised and sold, in the same manner as real estate is appraised and sold under the provisions of the act regulating judgments and executions.

Sec. 18. That if the person holding lands, tenements or hereditaments, in trust and for the use of such bank or banker, body politic or corporate, shall refuse or neglect, upon demand, to make to the purchaser, his heirs or legal representatives, a deed in the manner pointed out in the twelfth section of this act; such purchaser, his heirs or legal representatives, may file a bill in equity, to compel a conveyance of the property sold: and if a decree shall be rendered in favor of the purchaser, his heirs or legal representatives, it is hereby made the duty of said court rendering such decree, further to decree against the person so refusing, twenty five per centum damage on the whole amount for which such property was sold, and to issue execution therefor, as in other cases in chancery. Purchaser may file a bill in equity Damage decreed

Sec. 19. That the court from which the execution issued, shall make such allowance to the inquest appointed by said act, for their services, as to them may seem right; and if any person, being summoned to appear before the inquest, to ascertain the amount due on the deed of trust, or mortgage deed of conveyance, shall refuse to appear, or refuse to give testimony before said inquest, it shall be the duty of the inquest to report such person to the next court of common pleas, who are hereby required to punish such person or persons, refusing to appear or to give testimony, in the same manner that witnesses are punishable in court for like offences: and the clerk of the court of common pleas, when required, shall issue subpoenas for witnesses to appear before said inquest, at the time and place of their meeting; and the sheriff shall serve the same without delay: and the said sheriff, clerk and witnesses shall be allowed the same fees as is provided by law for similar services, to be taxed to, and paid by the defendant or defendants in execution. Witnesses refusing to appear, punished Fees

Sec. 20. That the plaintiff, at any time before his judgment shall be fully satisfied, may proceed thereon in either of the modes pointed out by this act; and having proceeded in one, he shall not be debarred from proceeding in the other, but may at any time proceed in either mode, until such judgment shall be fully satisfied. Plaintiff may proceed in either or both modes in this act

Sec. 21. That when any suit shall be brought before any justice of the peace, against any bank or banker, to recover money due from such bank or banker, upon notes or bills by them issued, for any sum made cognizable before a justice of the peace, and judgment shall be rendered, and execution shall be issued against such bank or banker; if the money shall not be made on the first execution issued, it shall be the duty of the justice, on request, to deliver to the plaintiff or his agent, a Justice to certify transcript to court, when process officer failing may issue

certified transcript of his docket: and on filing said transcript in the office of the clerk of the court of common pleas, of the proper county, and on the plaintiff's filing with said clerk an affidavit, stating that the amount of said judgment, or any part thereof, is then due and unpaid, it shall be the duty of such clerk to issue process of attachment or fieri facias thereon, at the option of such plaintiff, in the same manner as on a judgment originally recovered in such court.

Chancery jurisdiction not taken away by this act

Sec. 22. That nothing herein contained shall be so construed as to take away the jurisdiction which either of the courts of this State, sitting as a court of chancery, may or might have in any case which comes within the provisions of this act.

Notes issued by unincorporated banks, void

Sec. 23. That no action shall be brought upon any notes or bills hereafter issued by any bank, banker or bankers, and intended for circulation, or upon any note, bill, bond, or other security given, and made payable to any such bank, banker or bankers, unless such bank, banker or bankers, shall be incorporated, and authorized by the laws of this State, to issue such bills and notes; but that all such notes and bills, bonds and other securities, shall be held and taken in all courts as absolutely void.

Suits &c. under former, to be governed by this act

Sec. 24. All suits heretofore commenced under the provisions of the act, entitled "An act to provide for a more speedy and equitable collection of debts, where banks and bankers are parties," passed February 2d, 1821; or an act amendatory thereto, passed February 2d, 1822; whether judgment has been obtained or not, or whether execution has been levied or not, shall in all respects be proceeded in the same manner as though such suits had been originally commenced under the provisions of this act: and the above recited acts, passed February 2d, 1821, and February 2d, 1822, be, and the same are hereby repealed.

Acts repealed

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

January 28, 1824.

AN ACT to prohibit the circulation of foreign Bank bills of a less denomination than five dollars, in this State.

Circulation of foreign Bank bills of less denomination than five dollars prohibited

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That from and after the first day of December, in the year of our Lord one thousand eight hundred and thirty-one, it shall be unlawful for any person or persons, or body corporate, to pass, transfer or circulate, either directly or indirectly, cause to be passed, transferred or circulated, or to receive or cause to be received, any Bank note or bill of a less denomination than five dollars, unless said Bank note or bill shall have been

issued from, and made payable at one of the Banks of this State:

Provide, however, That the mere exchange of one Bank note for another, shall not be deemed an infringement on the provisions of this act. Provide as to the exchange of notes

Sec. 2. That any person or persons, or body corporate, offending against any of the provisions of the first section of this act, shall forfeit and pay, for every such offence, the sum of five dollars; to be recovered by any person suing for the same, as debts of a like amount are by law recoverable: to be paid over by the officer before whom it is recovered, to the treasurer of the township in which said offence was committed, for the use of common schools in said township. Penalty for offending under this act and how recovered and appropriated

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

January 31, 1831.

AN ACT for the relief of Sureties and Bail, in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any person or persons, shall hereafter become bound as surety or sureties, by bond, bill or note, for the payment of money or other valuable thing, and shall apprehend that his or their principal debtor or debtors, is or are likely to become insolvent, or remove from the county or State, without previously discharging such bond, bill or note, so that it will be impossible or extremely difficult for such surety or sureties, after being compelled to pay the amount of the money or other valuable thing which may be due by such bond, bill or note, to recover the same back from such principal debtor or debtors; it shall and may be lawful for such surety or sureties, in every such case, provided a right of action shall have accrued on such bond, bill or note, to require by notice in writing his or their creditor or creditors, forthwith to put such bond, bill or note, by which he or they may be bound as surety or sureties as aforesaid, in suit: and unless the creditor or creditors, so required to put such bond, bill or note in suit, shall, in a reasonable time, commence an action on such bond, bill or note, and proceed with due diligence in the ordinary course of law, to recover a judgment for, and by execution to make the amount of the money or other article of value, due by such bond, bill or note, the creditor or creditors, or the assignee or assignees of such bond, bill or note, so failing to comply with the requisitions of such surety or sureties, shall thereby forfeit the right which he or they would otherwise have, to demand and receive of such surety or sureties, the amount which may be due by such bond, bill or note. Sureties may require by notice principals to put in suit bonds, bills or notes, &c.
If suit not commenced in a reasonable time and due diligence, sureties, etc., discharged

Sec. 2. That any surety or sureties, or in case of his or their death, then his or their executors or administrators, may, in like manner, and for the same cause, make such requisition of the creditor or creditors, or his or their executors or administrators, as it is hereinbefore enacted, may be made by a surety or sureties of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid being duly made, the surety or sureties, his or their executors or administrators making the same, shall have the same relief as is hereinbefore provided, for a surety or sureties, where his or their creditor or creditors shall be guilty of a similar failure.

Guardians' bonds, etc., not affected

Sec. 3. That nothing in this act contained shall be so construed as to affect the bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, administrators or public officers.

Rights of creditors not affected

Sec. 4. That the rights and remedies of any creditor or creditors, against any principal creditor or creditors, shall in no wise be affected by this act, any thing herein to the contrary notwithstanding.

Surety prosecuted to judgment, may sue out a capias against principal, etc.

Sec. 5. That when any surety has been sued, and judgment rendered against him, for the debt of the principal debtor, he may sue out a capias against the person or persons for whom he is surety: and any court of competent jurisdiction is hereby authorized to render judgment for the proper amount, on the return of the process, from which judgment there shall be no appeal: and in all cases where the judgment against the surety shall have been obtained before a different justice or court, it shall be the duty of such surety to produce a transcript thereof to the justice or court so rendering judgment against the principal debtor; and on which judgment, when obtained before a justice of the peace, stay of execution shall be for one month less than that allowed to the surety in the transcript aforesaid.

When bail has been compelled to pay, court may issue scire facias

Sec. 6. That when any bail has been compelled to pay the amount of any judgment, or any part thereof, the court or justice before whom such judgment was rendered may, upon the request of such bail, issue a scire facias against the person or persons against whom judgment was originally given, to appear before such court or justice, which shall be served and returned by the proper officer; and the said court or justice, (as the case may be) shall proceed to hear and determine the said suit, as in other cases: and in such cases there shall be no stay of execution.

Transcript may be sent to another county where, etc.

Sec. 7. That when the defendant shall have removed or resides out of the county or township wherein judgment was originally given, the court or justice before whom such judgment has been entered, may, upon the request of such bail, grant a transcript of such judgment; and the defendant shall be proceeded against on such transcript, by any court having

cognizance thereof, in the same manner as directed in the sixth section of this act.

Sec. 8. That the "act for the relief of sureties in certain cases," passed February eleventh, eighteen hundred and fourteen; and the "act for the relief of bail in certain cases," passed January thirtieth, eighteen hundred and eleven; be, and the same are hereby repealed. Acts repealed

This act shall take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

February 22, 1820.

AN ACT authorizing aliens to hold lands in this State, by purchase or otherwise.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be lawful for any and all aliens that now may have, or that hereafter shall be entitled to have, within this State, any lands, tenements or hereditaments, either by purchase, gift, devise or descent, to hold, possess and enjoy the same, as fully and completely as any citizen of the United States or this State can do, subject to the same laws and regulations, and not otherwise. Aliens may hold lands

Sec. 2. That this act shall be in force from and after the passage thereof.

ELIAS LANGHAM,
Speaker of the House of Representatives.

NATHANIEL MASSIE,
Speaker of the Senate.

February 3, 1804.

AN ACT to restrict the entailment of real estate.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That from and after the taking effect of this act, no estate in fee simple, fee tail, or any lesser estate, in lands or tenements, lying within this State, shall be given or granted, by deed or will, to any person or persons, but such as are in being, or to the immediate issue or descendants of such as are in being, at the time of making such deed or will; and that all estates given in tail, shall be and remain an absolute estate in fee simple, to the issue of the first donee in tail.

This act to take effect and be in force from and after the first day of June next.

MATTHIAS CORWIN,
Speaker of the House of Representatives.

THOMAS KIRKER,
Speaker of the Senate.

December 17, 1811.

AN ACT securing to religious societies a perpetuity of title to lands and tenements, conveyed in trust for meeting houses, burying grounds, or residence for preachers.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That all lands and tenements, not exceeding twenty acres, that have been, or hereafter may be conveyed, by devise, purchase or otherwise, to any person or persons, as trustee or trustees, in trust, for the use of any religious society within this State, either for a meeting house, burying ground, or residence for their preacher, shall descend, with the improvements and appurtenances, in perpetual succession, in trust, to such trustee or trustees as shall, from time to time, be elected or appointed by any such religious society, according to the rules and regulations of such society, respectively.

Sec. 2. That the trustee or trustees, for the time being, of any religious society aforesaid, shall have the same power to defend and prosecute suits at law or in equity, and do all other acts for the protection, improvement and preservation of said property, as individuals may do in relation to their individual property.

M. T. WILLIAMS,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

January 3, 1825.

AN ACT to regulate Inclosures.

Where one erects a fence and another makes an opposite inclosure, he shall pay to the owner of the fence half the value thereof

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever the fields, lots, or inclosures, of any two or more persons, are divided by a fence of any kind, known by law as such, or where such fence or palings may hereafter be erected by any person on the line of his or their land, or that on which he, she or they may have a lease, and the person owning or leasing the land adjoining thereto, shall make, or cause to be made, an inclosure on the opposite side of such fence, so as the same may answer the purpose of inclosing his, her or their lot or field; such person or persons, shall pay to the person

who owns such fence one half the value thereof, to be adjudged by the fence viewers of the township in which such fence is situated; and the amount so adjudged, may be recovered by action of debt, before any court having jurisdiction thereof.

Value to be adjudged by fence viewers, and recovered by action of debt

Sec. 2. That whenever the parties concerned, as in the first section of this act mentioned, cannot agree between themselves on the part or portion of such fence or paling by each party to be kept in repair; either party may apply to the fence viewers of the township in which such fence is situate; who shall proceed, on application as aforesaid, to view and assign to each party his, her or their equal part of such fence or palings, by him or them to be kept in complete repair; which decision shall be final and conclusive between the parties: and the said fence viewers shall be entitled to demand and receive, for each day's service to be rendered as aforesaid, fifty cents each; to be paid in an equal proportion by the persons interested.

When parties cannot agree, fence viewers to determine the portion of fence to be kept in repair by each

Fees of fence viewers, and how paid

Sec. 3. That if any horse or horses, neat cattle or other beast, shall injure or trespass on the ground or inclosure of any person, in consequence of any partition fence erected as aforesaid, not being a sufficient and legal fence; the person failing or neglecting to keep his part of such partition fence in complete repair, shall forfeit and pay to the person injured all damages thus sustained; which shall be assessed by three judicious men, to be appointed by a justice of the peace of the township, and recovered by action of debt, before any court proper to try the same.

Party neglecting to keep his portion of fence in repair, to pay all damages done by trespassing animals

Such damages how assessed and recovered

Sec. 4. That in all cases whenever the fields, meadows, lots or other inclosures of two or more persons, are divided by a fence or palings of any kind, and where either of the parties think proper to vacate their part of such field, meadow, lot or other inclosure, or to make a lane or passage between the same; such person shall be at liberty to remove his or her part of said fence or palings, on giving six months' notice in writing to the other party or parties owning the adjoining fields, meadows, lots or other inclosures, or to his or her agent, where such party is not a resident of the county.

Party wishing to vacate field, or make a lane, may remove his portion of fences on giving six months' notice

Sec. 5. That the act, entitled "An act regulating inclosures," passed February third, one thousand eight hundred and twenty, be, and the same is hereby repealed.

Act repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives,
SAMUEL R. MILLER,
Speaker of the Senate.

February 7, 1831.

TRESPASSING ANIMALS.

AN ACT providing against trespassing animals.

Persons sustaining injury from trespassing animals to call fence viewers to examine fence

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any horse, mule or ass, or any neat cattle, hogs, sheep, or goats, shall break into any inclosure, and the owner or occupier thereof shall consider him or herself aggrieved thereby; the person so injured may apply to the fence viewers of the township, who shall forthwith repair to the place where such injury was done, and there diligently examine the fence, over or through which such trespassing animal or animals broke or entered into any such inclosure.

If fence be insufficient, fence viewers shall assess the damages sustained

Sec. 2. That if, in the opinion of the fence viewers, such fence is of sufficient height and strength, and in every respect such as good husbandmen generally keep, they shall proceed, from view and inquiry, to assess the damages sustained by such applicant, from such trespassing animal or animals; which assessment, including the sum due for their services, they shall certify and deliver to the person sustaining such damages.

Owner of animal refusing to pay damages may be sued, and how

Sec. 3. That if the owner or possessor of such trespassing animal or animals, shall refuse to pay the said damages on demand, the person so injured may deliver said certificate to a justice of the peace, who shall issue process thereon, and proceed to judgment and execution as in other cases.

When fence is insufficient, person calling fence viewers shall pay costs

Sec. 4. That if, in the opinion of the fence viewers, the fence shall be insufficient, the person calling upon them to view and examine the same, shall pay all costs of such view and examination; to be recovered by action of debt, at the suit of such fence viewers, with costs, before any justice of the peace, in the proper township.

Fees of fence viewers

Sec. 5. That each of the fence viewers shall be entitled to receive fifty cents per day, for their services rendered under this act; and any fence viewer who shall neglect or refuse to perform any of the duties enjoined on him by this act, shall be subject to pay a fine of not more than five dollars, for every such neglect or refusal, to be recovered by action of debt, at the suit and for the use of the person injured by such neglect or refusal.

Act repealed

Sec. 6. That the act defining a lawful fence, and providing against trespassing animals, passed February the 2d, 1805, be, and the same is hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BEIL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

February 14, 1831.

BREED OF SHEEP.

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AN ACT to prevent injury by Dogs.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any dog or dogs shall kill or injure any sheep or lamb, the owner or harbinger of such dog or dogs, shall be holden liable for all damages which may be sustained thereby, to be recovered at the suit of the party injured, before any justice or court, having cognizance. Owner liable for damages by dogs

Sec. 2. That it shall be lawful for any person or persons, Dogs injuring sheep may be killed forthwith to kill, wound, or destroy any dog or dogs, which may be found worrying or injuring any sheep or lamb.

This act shall take effect and be in force from and after the ~~next~~ first day of May next.

JOHN POLLOCK,
Speaker of the House of Representatives.
THOMAS KIRKER,
Speaker of the Senate.

December 24, 1814.

AN ACT to improve the breed of Sheep.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any ram shall be found running at large, out of the inclosure of its owner, between the last day of June and the first day of November, it shall be lawful for any household-Rams running at large to be taken up er to take up such ram; and if the owner thereof be known to him, it shall be the duty of the person taking up such ram, to give notice forthwith to the owner, of the taking up of such ram by him: and if, thereupon, the owner require a restoration of such ram, he shall pay to the taker up thereof the sum of fifty cents; or, if he refuse so to do, such ram shall be forfeited to the person taking up the same: and if the owner, upon restoration of such ram, shall thereafter, within the period aforesaid of the same year, voluntarily or knowingly permit such ram again to run at large, the same shall be forfeited to any person who shall, within the period aforesaid, take up the same. Proceedings thereon

Sec. 2. That if the owner of any ram so taken up, be not known to the person taking up the same, it shall be his duty forthwith to give notice, by advertisement posted up in five of the most public places in the township in which he shall reside, of the taking up of such ram; describing therein the natural and artificial marks of, and stating the time of taking up such ram: and if the owner appear and reclaim such ram within ten days from the taking up thereof, he shall pay to the taker up, upon the restoration of such ram, the sum of one dollar for the taking up and advertising the same; and if the owner shall appear to reclaim such ram, after such ten days, and before the first day of November, he shall pay to the taker up, in ad- When owner not known, the ram to be advertised Proceedings thereon

KILLING WOLVES.

dition to the said sum of one dollar, ten cents per week for the keeping such ram: but if the owner shall not reclaim such ram within three months from the taking up thereof, the same shall be forfeited to such taker up: and if the owner who shall have reclaimed any such ram, shall thereafter, and before the first day of November, voluntarily or knowingly permit such ram again to run at large, the same shall be forfeited to any person who shall take up the same.

County commis-
sioners to enforce
this act: if they
see fit; if not, the
same to be void
and of none ef-
fect
Publication to be
made

Duty of town
clerks

Sec. 3. That this act shall be in force in those counties only, the boards of commissioners of which shall, in the present year, or in any year thereafter, before the first day of May, whenever it shall be deemed expedient, resolve that the same shall be adopted and in force in their respective county or counties; and shall cause notice of such resolution to be published for thirty days previous to the first day of June of the year in which such resolution shall be passed, in some newspaper published, or in general circulation, in such county: whereupon, this act shall thereafter be in force in such county and counties: and it shall be the duty of the clerks of the several townships, in each county, wherein this act shall be adopted, as aforesaid, immediately upon the publication of such resolution of the commissioners, to republish the same, in their townships, by advertisement posted up in five of the most public places therein.

EDWARD KING,

Speaker of the House of Representatives.

SAMUEL WHEELER,

Speaker of the Senate.

January 13, 1829,

AN ACT to encourage the killing of Wolves.

Bounty for kill-
ing wolves

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That any person who shall kill any wolf or wolves, within this State, shall be entitled to receive the following compensation, to wit: For each wolf above the age of six months, the sum of four dollars and twenty-five cents; and for each wolf under the age of six months, the sum of two dollars and fifty cents.

Scalps and ears
to be produced to
clerk of common
pleas within 20
days

Sec. 2. That any person claiming such reward, shall produce the scalp or scalps of the wolf or wolves so killed, with the ears entire, within twenty days after such wolf or wolves have been killed, to the clerk of the court of common pleas of the county within which such wolf or wolves were killed, or of the county, to which such county where such wolf or wolves are killed, is or may be attached for judicial purposes; which clerk shall administer to the person producing the scalp or scalps as aforesaid, the following oath or affirmation: "You, A. B. do solemnly swear or affirm, as the case may be, that the scalp or

scalps now produced by you, is the scalp or scalps of a wolf or wolves, (as the case may be,) taken within the county of [naming the county,] by you, within twenty days last past, and you verily believe the same to have been over or under the age of six months, (as the case may be); and that you have not spared the life of any she wolf within your power to kill, with a design to increase the breed:" which oath or affirmation shall be by the clerk taken in writing, and subscribed by the person presenting the scalp or scalps aforesaid.

Sec. 3. That the clerk before whom such oath or affirmation was made, after causing the scalp or scalps to be destroyed in his presence, shall file the deposition so taken in his office, and under the seal thereof, grant to the person an order on the treasurer of State for the amount of moneys which may be due such [person] by the provisions of the first section of this act: and the person receiving such order, shall pay to the clerk granting the same, twenty-five cents; which order shall be received by any county treasurer in this State, in discharge of any taxes due the State.

Clerk to cause scalps to be destroyed, file deposition, and give an order on treasurer of State

Order to be received for State tax

Sec. 4. That the county commissioners of any county within this State, may increase the bounty for wolf scalps to six dollars; which additional bounty shall be paid out of the county treasury, on the order of the county auditor.

County commissioners may increase the bounty

Sec. 5. That the "Act to encourage the killing of wolves," passed December twenty-second, eighteen hundred and twenty-one; and the act amendatory thereof, passed twenty-fourth of December, eighteen hundred and twenty-nine; and all laws and parts of laws heretofore passed on that subject; be, and the same are hereby repealed.

Acts repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,

Speaker of the House of Representatives.

SAMUEL R. MILLER,

Speaker of the Senate.

February 9, 1831.

AN ACT to protect the Fur Trade.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That if any person shall, between the first of May and fifteenth of October following, kill or destroy any muskrats, and be thereof convicted; the person so offending shall forfeit and pay one dollar, for each muskrat so killed or destroyed, to be recovered before any justice of the peace having cognizance of the same; which sum, so recovered, shall be paid by such justice into the treasury of the township where the offence was committed, for the use of common schools in such township:

PROTECTION OF TIMBER.

Provided, That nothing in this act contained shall be construed to prevent any person from destroying muskrats, where the same shall be injurious to works of a public or private nature.

THOMAS L. HAMER,

Speaker of the House of Representatives.

ROBERT LUCAS,

Speaker of the Senate.

January 18, 1830.

AN ACT to prevent destroying Timber.

First quality of
timber named,
and penalty for
destroying it

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any person shall cut, fell, box, bore, or destroy, any white or black walnut; black, white, yellow or red oak; poplar or white wood; wild cherry; white or blue ash; yellow or black locust; chesnut, coffee, pine, cedar, or sugar tree, or sapling, growing on land belonging to any other person or persons, without having first obtained permission from the owner or owners of such land, his, her or their representative, agent, or attorney; every person so offending shall forfeit and pay to the owner or owners of the land, for every tree or sapling aforesaid, a sum not less than fifty cents, nor more than twenty dollars: and every person who shall in like manner offend, in cutting, felling, hoxing, boring, or destroying any tree or sapling, other than those above named, shall forfeit and pay, for every such tree or sapling, a sum not less than twelve and a half cents, nor more than five dollars.

Second quality
and penalty for
destroying it

Sec. 2. That if any person shall commit any of the trespasses enumerated in the first section of this act, and when such trespass does not exceed seventy dollars, any justice of the peace of the township where such trespass was done, shall have cognizance thereof, and shall hear and determine the same as in other cases, whether the defendant shall claim title to the land or not; but an appeal, in usual form and manner, may be had from the final judgment of the justice in such case.

Justice of the
peace to have
cognizance and
appeals allowed

Repealing clause

Sec. 3. That a law to prevent destroying of timber, passed January eleventh, one thousand eight hundred and five, be, and the same is hereby repealed.

This act shall take effect and be in force from and after the first day of May next.

JOHN POLLOCK,

Speaker of the House of Representatives.

THOMAS KIRKER,

Speaker of the Senate.

January 4, 1815.

Note.—The first section of this act is superseded by the 39th section of the act for the punishment of certain offences therein named. See page 161.

AN ACT defining the duties of persons taking up stray animals, and securing to the owners, boats, and other water craft, found going adrift.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be lawful for any person holding land in this State, by deed, title bond, or lease, for three or more years, and being in possession thereof, to take up any strays running at large within the township where such taker up resides: *Provided*, That no person shall be allowed to take up any neat cattle, sheep or hogs, after the first day of April, and before the first day of November annually; nor shall any compensation or fees be allowed to any person for taking up any stray animal from the range where such animal usually runs at large, or when the owner of such stray is known to the taker up, except as is provided, in the eleventh section of this act.

By whom strays may be taken up

Previous to time of taking up

Sec. 2. That every person taking up any stray or strays, shall advertise the same in writing within five days, at three public places within the township where the taker up resides, giving an accurate description of the marks, brands, color, size, and supposed age of such stray or strays; and if any alteration has been made in such marks or brands, within his knowledge, the same shall be particularly stated and described therein: and if no person shall claim and prove his or her right to any such stray or strays, within twenty days after such advertisement, the taker up shall go before a justice of the peace within the township, and make oath when and where he found such stray or strays, and that he hath neither trimmed, docked, nor altered the brands or marks of such stray or strays, or suffered the same to be done; or if any such alteration has been made within his knowledge, shall state the same.

Taking up to be advertised, and how

Oath to be made by taker up

Sec. 3. That the said justice shall issue an order to two respectable freeholders or householders, to be named in such order, commanding them forthwith to view and appraise such stray or strays, and to return to him upon oath or affirmation, their appraisement, with a true and accurate description of the marks, brands, size, color, and supposed age of such stray or strays; and the taker up shall give notice of such order to the parties therein named.

Strays to be appraised by two freeholders

Sec. 4. That upon the return being made of the appraisement and description as aforesaid, such justice shall record the same in his stray book, together with the names of the taker up and appraisers, and transmit such appraisement within fifteen days, to the clerk of the court of common pleas of the county, who shall record the same in his stray book, and file the original in his office: and in all cases where the stray shall be horse, mare, or gelding, it shall be the duty of such justice, within ten days after he shall have received such return, from the freeholders or householders as aforesaid, to transmit a certified copy thereof, by post or otherwise, to some printer most convenient to the place where such animal was taken up, with a request to

Justice to record and transmit appraisement to clerk of c. p., etc.

When stray is of the horse kind, copy of appraisement to be inserted in newspaper

Expenses and
fee to be paid by
taker up,

Revised

Clerk to set up
list of strays at
court house door

Proceedings in
relation to tak-
ing strays out of
settlement

Owner of stray
may prove his
right thereto,
how, and within
what time

such printer to insert the same in his newspaper for three weeks successively: and the taker up of such stray or strays, shall deposit with such justice the sum of one dollar, to be paid by the justice to the printer, who shall publish the same; and also, the sum of twenty-five cents, for the expense of conveying the copy aforesaid to the printer: and in all cases, the taker up of any stray or strays as aforesaid, shall pay to the justice for his services under this act, the sum of fifty cents, and also deposit with him the sum of twenty-five cents, to be transmitted by such justice to the clerk of the court of common pleas, with the appraisement aforesaid, for his services under this act: *Provided*, That if two or more strays of the same species, shall be taken up by one person at the same time, they shall be included in the same entry; and in such case, the justice and clerk aforesaid, shall receive no more than for one of such species: and the clerk shall cause a list of all strays, with the descriptions thereof given as aforesaid, to be affixed at the door of the court house, on the first day of the court next holden, after such returns have been made to his office.

Sec. 5. That it shall be lawful for any person to take up any stray or strays, found running at large without any settlement of this State; and the taker up of any such stray or strays, shall forthwith go before the nearest justice of the peace, and make the oath required by the second section of this act, and that he hath neither trimmed, docked, nor altered the brands or marks thereof: and if the taker up be a freeholder or householder within the county where such justice resides, then the justice and the taker up shall be governed by the rules and regulations prescribed in the preceding sections of this act; but if it shall appear to the satisfaction of such justice, that the taker up is not a resident of the county, and a freeholder or a householder as aforesaid, he shall rule the taker up to give sufficient security to such justice, for the safe keeping and delivery of such stray or strays, agreeably to the provisions of this act; and on producing such security, the justice shall make a record thereof in his stray book, and proceed in the same manner as if such stray had been taken up by a freeholder or householder: but if the taker up should fail or refuse to give such security, the justice shall issue his warrant to any constable of the township, to take into his charge, or deliver to any freeholder or householder who will take charge of such such stray or strays, and proceed in the same manner as if such stray or strays had been taken up within the settlement.

Sec. 6. That the owner or owners of any stray or strays, taken up as aforesaid, on making satisfactory proof of his or their right thereto, before any justice of the township, within one year after the same was taken up, shall be entitled to demand and receive such stray or strays, with the increase, if any: *Provided*, The same shall be of the horse kind, or within six months if the same shall be of any other kind of stray or strays,

having first paid as a reward to the taker up for each horse kind, ^{Reward for taking up} the sum of one dollar; for every head of neat cattle, fifty cents; for every sheep, hog or goat, above six months old, twelve and one half cents; together with the legal fees paid by the taker up, and reasonable charges for keeping such strays: but if the taker up and the owner should disagree on the sum to be paid, for keeping as aforesaid, it shall be lawful for either party to apply to a justice of the peace within the township, to nominate three disinterested freeholders, whose duty it shall be to make such allowance for keeping such strays, as to them shall appear just, and forthwith certify the same, under their hands, to such justice, upon oath or affirmation; and if the owner shall fail or refuse to pay the sum so adjudged, together with the fees as aforesaid, ^{Expenses, how ascertained} within forty days thereafter, it shall be lawful for the taker up to deliver such stray or strays to any constable of the township; who shall, after giving ten days' notice by advertisement, at three of the most public places in the township, of the time and place of sale, proceed to sell the same for ready money to the highest bidder, to satisfy the costs and charges aforesaid: and the constable, after paying to the taker up the fees, award and charges aforesaid, and deducting one dollar for his own fees, shall pay the remainder to the owner of such strays. ^{Owner refusing to pay expenses and fees, strays to be sold, etc.}

Sec. 7. That when the appraised value of any stray or strays, of the same species, taken up as aforesaid, does not exceed five dollars, for the whole number taken up, and reported at one time, and no person shall appear within one year after such taking up, if the same shall be of the horse kind, or within six months, if the same shall be of any other kind of stray or strays, and prove his or her right thereto, the right of such stray or strays shall be vested in the taker up: but if the value shall exceed five dollars, and no owner appear as aforesaid, the taker up shall apply to the justice to whom the return was made of the appraisement, marks, brands, size, color, and supposed age of such stray or strays, for a copy of such return, which said justice is hereby required to give, from his stray book; which copy the taker up shall forthwith deliver to a constable of the township: and the constable shall immediately advertise such stray or strays for sale, at three public places within the township, mentioning the time and place of sale, which shall be at least ten days from the time of advertising; and which sale shall be made at some public place in said township, if of the horse kind, but if of any other kind of strays, the same shall be sold at the residence of the taker up, between the hours of ten o'clock, A. M. and four o'clock, P. M.; at which time and place, the taker up shall deliver such stray or strays to the constable, and take his receipt therefor, and transmit the same to the township treasurer. ^{When stray shall vest in taker up} ^{And when and how sold}

Sec. 8. That the constable shall proceed to sell the same to the highest bidder, upon a credit of nine months, for the residue of the purchase money, after paying the expense of taking up, ^{To be sold on a credit}

Duty of constable
in making sale

posting and keeping; which expense shall be ascertained in the manner directed in the preceding sections of this act; and also reserving for his fees the sum of one dollar: and it shall be the duty of the constable, after paying the above expenses and fees, to take an obligation from the purchaser for the balance due, with one or more sufficient securities resident within the township payable to the township treasurer, or his successor in office; and to deliver the same to the said treasurer, for the use of the township in which the stray or strays is taken up.

Treasurer may
sue for purchase
money
Owner proving
property within
three years, to re-
ceive the avails
of the sale

Sec. 9. That each treasurer to whom bond is given as aforesaid, is hereby authorized and empowered to sue, recover and receive, for the purpose aforesaid, all moneys due thereon: *Provided*, That when any property is sold as aforesaid, and the owner shall claim the same within three years, and prove his, her, or their right thereto, to the satisfaction of a justice of the peace of the proper township, the justice shall issue his order to the treasurer, requiring him to sign over the obligation, of any judgment thereon, to such claimant, for his use, or pay over the money, if paid into the treasury, on such bond; and the treasurer shall pay over the same accordingly.

Persons abusing
strays, &c liable
to an action

Sec. 10. That if any person taking up any strays as aforesaid, shall sell the same, abuse, or suffer it to be abused, either by working, riding, neglecting to feed, or in any other manner, so that such stray shall, in consequence thereof, die or be lessened in value; or shall take, or cause such stray or strays to be taken out of the township, more than two days at any one time; or shall, by his or her neglect, suffer such stray or strays to escape; or if any person shall knowingly purchase any stray or strays, contrary to the provisions of this act: the person so offending shall be liable to the action of the party injured, or the trustees of the township, as the case may be; and upon conviction thereof, shall pay the full amount of damages sustained, and the costs of suit: If any person who may have taken up any horse, mare, or gelding, shall in any manner work or use the same, such person shall be debarred from receiving any compensation for keeping such stray.

Using stray of
the horse kind,
debars compensation
for keeping

Stoned horse
may be taken up
and treated as
stray

Sec. 11. That if any stoned horse of one and a half years old or upwards, shall be found running at large, out of the inclosed ground of the owner or keeper of the said horse, it shall be lawful for any person to take up such horse, and forthwith give notice to the owner or keeper thereof, if the said owner or keeper be known: and if the owner or keeper do not appear within five days thereafter, and pay to the said taker up two dollars, as a compensation for his trouble, the taker up shall then proceed to advertise said horse; and the same proceedings shall be had in every respect, as herein before provided for in case of stray horses: *Provided*, That the taker up may, after the expiration of twenty days from the time of advertising, geld, or procure to be gelded, the said horse, which shall be done at the risk and expense of the owner.

reviso

Sec. 12. That it shall be lawful for any person or persons, ^{Boats, &c. adrift,} finding any boat, water craft, raft or piece of a raft, or other ^{may be taken up} valuable property; gone or going adrift, within this State, or any of the waters adjoining thereto, to take up and secure such boat, water craft, raft or piece of a raft, or other valuable property: and if no person shall claim and prove his right to such boat, water craft, raft or piece of a raft, or other valuable property, ^{Proceedings in relation thereto.} within thirty days thereafter, the taker up shall cause such boat, water craft, raft or piece of a raft, or other valuable property, to be viewed by two freeholders or householders of the township, who shall, after viewing the same, give a description thereof in writing, together with the value of such boat, water craft, raft or piece of a raft, or other valuable property, and certify the same under their hand-; which certificate the taker up shall deliver within five days, to some justice of the peace within the township.

Sec. 13. That the justice to whom such certificate shall be delivered, shall make a record thereof in his stray book; and the taker up shall, at the same time, pay to the justice the sum of twenty five cents for his services, and deposit the sum of twenty-five cents in the hands of said justice, to be by him transmitted, together with the certificate aforesaid, within fifteen days, to the clerk of the court of common pleas; and the clerk shall enter the same in his stray book, and file the original in his office: *Provided always*, That if the taker up is not a freeholder or householders within the county, the justice may, if he deem it necessary, rule him to give security, as in the case of ^{Duty of justice and clerk in relation to water craft taken up} stray animals taken up under this act; and on neglect or refusal to comply with such rule, the justice may take such boat, water craft, raft or piece of a raft, or other valuable property, into his own possession, or deliver it to any freeholder in the township, who shall take charge thereof; and the same proceedings shall be had, as in cases of persons taking up stray animals under this act. ^{When justice may require security of taker up, &c.}

Sec. 14. That the owner of such boat, craft, raft or piece of a raft, or other valuable property, on proving his right thereto, within the time hereinafter limited, and paying to the taker up, for each flat or keel boat, for each scow or lighter, for each Kentucky or Orleans boat, and for each skiff, pirogue, canoe, or other valuable property, such reward or compensation as shall be deemed reasonable, at the discretion of the justice of the peace, together with the fees allowed by this act, shall be entitled to demand and receive such boat, craft, raft or piece of a raft, or other valuable property, so taken up as aforesaid. ^{Owners may receive property, on proving right and paying expenses}

Sec. 15. That if the appraised value of such boat or craft, raft, or piece of a raft, or other valuable property, does not exceed five dollars, and if no person shall appear within two months after the taking up thereof, and prove his right thereto, the right of such boat or craft, raft, or piece of a raft, or other valuable property, shall vest in the taker up: but if the ^{When water craft shall vest in taker up, and when shall be sold}

The sale to be made as in the case of animals

Proviso as to water craft on the shores of Lake Erie

How strays shall be sold and proceeds paid, when new townships are laid off

Towns not to make by-laws contrary to this act

Justices to keep books for recording strays, which shall be delivered to their successors

value shall exceed five dollars, and the owner does not appear and prove his right thereto, within two months, then the taker up shall deliver the same to any constable of the township, and take his receipt therefor; and the constable shall proceed to advertise, sell, and pay over the money arising therefrom, in the same manner as is directed in the case of stray animals, by the preceding sections of this act: and the owner of such boat, craft, raft, or piece of a raft, or other valuable property, sold as aforesaid, shall be entitled to receive the amount thereof, out of the township treasury, in the same manner as is provided in the preceding sections, as in case of stray animals: *Provided*, That if the appraised value of any boat or craft, taken up upon the shores of Lake Erie, shall not exceed eight dollars, and if no person shall appear and prove his right thereto, within the time provided by this section, such boat or craft, or other property, shall be vested in the person taking up the same.

Sec. 16. That the several township treasurers shall pay over all moneys in their hands belonging to the treasury; and also deliver all books, and all bonds deposited in their hands, to their successors in office: and when any new township shall be set off, within the bounds of which there shall be a stray or strays, which, agreeably to this act, ought to be sold, it shall be the duty of the justice, to whom the return of the appraisement of such stray or strays was made, or his successor in office, to furnish a copy of such appraisement to the constable whose duty it would have been to sell such stray or strays, had not such township been so set off; and the constable, furnished with such copy, shall proceed to advertise and sell such stray or strays, in the same manner as hereinbefore provided: and the proceeds of such sale, after paying the incidental expenses, shall be paid into the treasury of the township so set off, for the use of such township.

Sec. 17. That nothing in the act to provide for the incorporation of towns, and nothing in any special act for the incorporation of any town or village in this State, shall be so construed, as to authorize the making of any by-laws or ordinances, or to enforce the same, of any town or village, which shall subject any animals, the property of any person not residing within the limits of such town or village, to be taken up and dealt with in any other manner than is provided for in this act.

Sec. 18. That from and after the taking effect of this act, it shall be the duty of each justice of the peace within the township, to keep a book of sufficient size for the purpose of recording all strays, the appraisement of which shall be returned to his office: and should the office of such justice become vacant, by his term of service expiring, resignation or otherwise, he, or his legal representatives, shall deliver the said book to the clerk of the township: and it shall be the duty of such clerk to deliver over such book, to the person who shall succeed said justice in office; whose duty it shall be to furnish

a copy of such appraisement, in the same manner as if he had been in office at the time the return of such appraisement was made.

Sec. 19. That if any person shall neglect to perform the duties required by this act, or shall do any thing contrary thereto; such person shall forfeit and pay a sum not exceeding one hundred dollars, nor less than one dollar; to be recovered by action of debt, before any court having cognizance thereof; and shall moreover be liable to the action of the party injured: it is hereby made the duty of each township treasurer, to sue for, collect, and pay over, all moneys arising by virtue of any forfeiture incurred by this act, for the use of the township. Penalty for neglect of duty, &c., under this act, and how recovered

Sec. 20. That in every case where any freeholders or house holders, perform any services under the provisions of this act, they shall each be entitled to receive the sum of fifty cents, for each day they may be actually employed; to be paid by the person or persons taking up such stray or strays. Fees of freeholders

Sec. 21. That the act, entitled "An act defining the duties of persons taking up stray animals, and securing to owners, boats and other water crafts, found going adrift," passed February the 18th, 1824; and the act amendatory thereto, passed January the 29th, 1827; be, and the same are hereby repealed. Acts repealed

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate,

February 15, 1831.

AN ACT for the inspection of certain articles therein enumerated.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall be the duty of the court of common pleas of each county in this State, at their first, or any subsequent session, after this act shall take effect, to appoint, where it may be necessary, one gauger and inspector of domestic and foreign spirits and linseed oil; one inspector of flour, meal and biscuit; one inspector of beef, pork, lard and butter; one inspector of pot and pearl ashes: who shall each have the power of appointing as many deputies to act under them, as their respective duties in office may require: for the conduct of the deputy, the principal shall be accountable and liable. Common pleas to appoint inspectors. Inspectors may appoint deputies

Sec. 2. That before any inspector or deputy inspector, shall enter upon the duties of his office, he shall take an oath or affirmation, that he will faithfully and impartially execute the duties required of him by law: and each inspector shall moreover enter into bond, with sufficient freehold security, to Inspectors to be sworn and give bond

be approved by the court, in such sum as the court may require, not less than three hundred, nor more than one thousand dollars, made payable to the State of Ohio; which bond shall be deposited with the treasurer of such county, conditioned for the faithful and impartial performance of the duties required of him by law.

Person injured
may sue on the
bond

Proviso as to
costs

Sec. 3. That every person who may think himself injured by the incapacity, neglect or misconduct of such inspector or his deputy, may institute a suit on a copy of the bond, certified by the treasurer, for the use of the person suing: *Provided*, That the treasurer shall not be liable for costs: and in case the party suing shall obtain judgment, he may have execution as in other cases; and the bond shall not become void on the first, or any subsequent judgment: *Provided also*, That suit be instituted within one year after the cause of action shall have accrued.

Duty of inspectors

Sec. 4. That it shall be the duty of the inspectors or their deputies, within their respective counties, to inspect, (as the case may be,) all wheat or rye flour, or buckwheat meal, biscuit, butter, lard, pork, beef, fish, and pot or pearl ashes, on application made to him or them for that purpose; and when inspected, stamp on the cask containing the same, with branding irons, to be provided by the inspector for that purpose, the name of this State, with the name of the county where inspected; also, the kind and quality of the article inspected; which branding irons shall be made and lettered, as may be directed by the courts of common pleas respectively: and every inspector shall make in a book, to be provided by him for that purpose, fair and distinct entries of all articles inspected by him or his deputies, with the names of the persons for whom each article was inspected.

Flour and meal
casks, how made

How much to
contain

Quantity to be
branded on cask

How inspected

Sec. 5. That all flour and meal shall be packed in well made casks of seasoned timber, twenty-seven inches in length when finished, with a cut head of seventeen and one half inches, tightly bound with ten smart hoops, or six flat hoops two inches broad, secured with four nails in each end hoop, and three nails in each outward bilge hoop; each barrel to contain one hundred and ninety-six pounds of flour or meal; and the tare of the cask shall be marked on the head of each barrel of flour or meal, by the miller, with a marking iron; and the weight of the flour or meal shall be branded on the cask, with a branding iron to be by him provided for that purpose: and when flour or meal shall be exhibited for inspection, the inspector shall bore and search the same with a proper instrument, so as to ascertain if it be sweet, and of the kind and quality marked by the miller; and if he shall judge it sweet and of good quality, he shall plug up the whole tight, and cause the same to be branded, as is prescribed in the fourth section of this act: but if on examination, the flour or meal shall be found sour, or of bad quality, or not merchantable, it shall be condemned; but

if merchantable, though of a quality inferior to, or different from, that represented by the miller's brand, said brand shall be erased, and the proper quality marked thereon by the inspector.

Sec. 6. That it shall be the duty of the miller or mill owner, to brand or cause to be branded, on the head of each barrel, the quality of the flour contained therein, and the initial letter of his christian name, and his surname in full; or should the mills be owned by more than one person, then the names of such persons or company: and if any miller or mill owner or company, shall neglect so to brand the same, he or they so offending shall, on conviction thereof, forfeit and pay for each offence, the sum of five dollars, for the use of the county: and if any miller or any other person shall pack, or cause to be packed, any bran, shorts, midling, or unmerchantable flour, with intent to defraud any person, the person or persons so offending shall, on conviction thereof, forfeit and pay for every such offence, a sum not less than one hundred dollars, nor more than five hundred dollars, for the use of the county; to be recovered before any court having competent jurisdiction, and moreover be liable to the action of the party injured for damages.

Name of miller and quality of flour to be branded on barrel

Penalty for neglect, or for packing unmerchantable flour, with intent to defraud

Sec. 7. That all barrels for beef or pork, shall be made of sound, well seasoned white oak timber, clear of sap wood, twenty nine inches in length when finished, with a cut head of seventeen and a half inches in diameter, tightly bound with strong hoops, one third of the length thereof, at each end: and when packed and headed up, the outward hoop on each end shall be secured with four nails of suitable size.

Beef and pork barrels, how made

Sec. 8. That each barrel of beef or pork, put up for exportation in this State, shall contain two hundred pounds weight of sound, clean, well slaughtered meat, and such only as is well fattened, which shall be denominated as follows: "mess beef," shall be cut as near as may be, into well formed pieces of ten pounds, so that twenty pieces shall make the weight, and shall be well assorted, excluding legs, leg rounds, necks and shoulder clots: "prime beef," shall be cut in like manner, and shall be well assorted, but may include not exceeding two leg rounds, leaving out the point of the neck and all clotted pieces; fifty pounds of clean fair dry salt, and four ounces of salt petre shall be put into each barrel; and when the barrel is packed and headed, it shall be filled up with strong pickle.

Barrel of beef or pork to contain 200 lbs

Directions for packing beef

Sec. 9. That each barrel of "prime pork," shall consist of twenty-five pieces, weighing eight pounds each, as near as may be, making two hundred pounds; which may include one head and a half, and six shanks, excluding the legs, ears and snouts, so as to be composed of the assorted meat of one hog and a half hog; or in lieu thereof, three shoulders, one head and a half, exclusive of the legs, snouts, and ears, and the remainder in side pieces: each barrel of "mess pork," shall consist of twenty-five

Directions for packing pork

pieces, of eight pounds weight each, as near as may be, making two hundred pounds of pork, taken from the middlings or sides of hogs weighing upwards of two hundred pounds each: each barrel of "navy pork," shall consist of twenty-five pieces, of eight pounds each, as near as may be, making two hundred pounds of pork, assorted, excluding all shanks and faces; no hogs to weigh less than one hundred and fifty pounds net: the pieces of pork shall be packed on the edge, with at least fifty pounds of clean fair salt, and two ounces of salt petre, to each barrel; and when thus packed and headed, each barrel shall be filled up with strong pickle.

Half barrels for
beef or pork,
how made

Sec. 10. That all half barrels for beef or pork, shall be made of sound, well seasoned white oak timber, clear of sap, twenty-four inches in length, with a cut head fourteen inches in diameter, bound with hoops one third the length of such half barrel at each end; the outward hoops thereof being secured with at least three nails of suitable size.

Butter and lard,
how packed and
inspected

Sec. 11. That all butter and lard shall be packed in tight and well seasoned firkins or kegs, on each of which shall be marked with a marking iron, the tare and net weight of the butter or lard therein contained; and the inspector or his deputy, shall bore each firkin or keg of butter or lard, and by examining diagonally from one head to the other, with a hol low instrument or searcher, so as to be able to discover the quality of the whole, ascertain that it be clear of mould, rancid, or musty taste, in which case he shall brand the same, as is provided in the second section of this act.

Inspection of
biscuit

Sec. 12. That all casks wherein biscuit shall be packed for exportation, shall be of the same size and quality of those specified for flour, in this act; the tare and net weight marked thereon with a marking iron, a true invoice of which shall be delivered by the owner to the inspector, or his deputy, when called on to inspect the same: and the inspector or his deputy shall thereupon proceed to unhead each cask and inspect the same; and if he shall judge the same to be good and merchantable, he shall brand the same as directed by the second section of this act.

Casks for pot
and pearl ashes

Sec. 13. That all pot and pearl ashes subject to inspection, shall be put in casks of good seasoned white oak or white ash timber, well made, hooped with substantial hoops for at least ten inches from each end, the staves not to be more than thirty-one, nor less than thirty inches in length; and the head of a pot ash barrel shall not exceed nineteen inches, and that of a pearl ash barrel, twenty-one inches in diameter: and no cask shall be tared less than fifty-six pounds; and casks weighing fifty-six pounds or more, shall be tared their weight: and it shall be the duty of every inspector of pot and pearl ashes, to empty the casks containing ashes, brought to him for inspection, and to examine and determine the quality, and repack the same, and brand or mark the head of each cask, in the manner prescribed in the fourth section of this act.

Inspection of pot
and pearl ashes

Sec. 14. That all barrels or casks containing domestic spirits, shall be made of good, well seasoned, white oak timber, clear of sap wood, bound with not less than ten good and sufficient hoops. Barrels for domestic spirits, how made

Sec. 15. That it shall be the duty of each inspector of domestic spirits, appointed under the provisions of this act, to provide himself with the most common and approved instruments for ascertaining the capacity of a barrel or cask, and the quality or proof of spirituous liquor, and to keep the same in good order; and when called upon for that purpose, shall immediately gauge or ascertain the capacity and contents of any barrel or cask, and the quality or proof thereof, and mark on such barrel or cask, the true quantity the barrel or cask will contain, in wine gallons, the amount of wastage, and the quality or proof of such domestic spirits, with the word "Ohio," and the name of the county where inspected: and each inspector shall make, in a book to be by him provided for that purpose, an entry of all domestic spirits inspected by him and his deputies, with the names of the persons for whom the same was inspected. Inspection of domestic spirits

Sec. 16. That the court of common pleas in each county in this State, bordering on Lake Erie, shall, at the first session of such courts respectively, after the taking effect of this act; and the court of common pleas in any other county in this State, may, at any subsequent session, after the taking effect of this act, appoint an inspector of fish; which inspector, before entering on the duties of his appointment, shall take the like oath or affirmation, and give the like bond, and be subject to the same liabilities thereon, and may have the like powers of appointing one or more deputies, as inspectors named in the first section of this act. An inspector of fish may be appointed

Sec. 17. That all fish hereafter sold in barrels or casks in this State, shall be contained in barrels or casks of the description hereafter specified; and before offered for sale, shall be inspected by some inspector, appointed under the provisions of the preceding section of this act, whose duty it shall be, immediately on application for that purpose, either by himself or deputy, to attend and perform the duties of his appointment, and make and keep entries thereof, as provided in the second section of this act. Fish to be inspected before offered for sale

Sec. 18. That all fish barrels or casks, shall be made of good, sound, seasoned white oak timber, clear of sap, well bound with twelve sufficient smart hoops, or eight flat hoops at least two inches broad, secured with three nails at least in each chime hoop, and shall contain at least two hundred pounds weight of clean fish, in each barrel or cask; and only one species of fish shall be packed or put into the same barrel or cask: and previous to any two hundred pounds weight of fish being packed or barreled as aforesaid, said fish shall be corned down with twelve pounds of salt, for a space of time not less than twelve Directions for making fish barrels, and packing fish

hours; immediately after which, or when inspected, they shall be thoroughly examined, cleaned, and packed, with forty pounds of good salt to each barrel or cask.

Manner of inspecting fish

Sec. 19. That it shall be the duty of the inspector, when inspecting any fish under the provisions of this act, to cause the same carefully to be opened and examined, and ascertain that such fish have been properly corned, and that the same are clean, of one species, and of good quality; and shall cause the same to be packed in good and sufficient barrels or casks, and the requisite quantity of salt applied, as hereinbefore required; and shall brand, or cause to be branded, on the head of each barrel or cask, the word "Ohio," the name of the port or county where inspected, the species of fish, the word and figure "No. 1," or "No. 2," as the same may be of the first or second quality, and the initial letter of such inspector's Christian name and his surname in full.

Person taking or importing fish, to have the same inspected at or near the place of landing

Sec. 20. That any person or persons, taking in the waters of this State, any fish, or bringing or importing into this State, any fish taken in any waters without this State, shall, immediately on bringing said fish on shore, or importing the same into any port or county in this State, except shad, mackerel and herring, and before any part thereof are sold or bartered in barrels or casks, or offered for sale or barter within this State, cause such fish to be inspected and branded by the inspector, at, or nearest the port or place at which the same are landed, or brought into this State.

Penalty for neglect, and how recovered and appropriated

Sec. 21. That every person or persons, neglecting or refusing to comply with the provisions of the preceding section, shall forfeit and pay, for each and every hundred pounds weight of fish, so by him, her or them, sold or offered for sale, without being inspected and branded as aforesaid, the sum of five dollars, to be recovered in an action of debt, before any court having jurisdiction thereof, with costs of suit, in any county in this State; which suit may be prosecuted in the name of the State of Ohio: and the amount so recovered shall be paid into the county treasury, to and for the use of common schools in the county where the suit is brought.

Person taking fish, to bury or burn offal

Sec. 22. That it shall be the duty of every person who shall hereafter take any fish, to the amount of one or more barrels, within any of the waters of this State, to bury the offals a depth of at least two and a half feet beneath the surface of the earth, or burn the same within one day after such fish are taken and cleansed; and any person or persons refusing or neglecting to comply with the provisions of this section, shall be fined in any sum not exceeding fifty dollars, nor less than five dollars, with costs of suit; to be recovered by action of debt, to be brought in the name of the State of Ohio, before any justice of the peace of the county in which the offence shall be committed, on the complaint of any person or persons; which sum, when collected, shall be paid over by said justice into the county treasury, to, and for the use of common schools in such county.

Penalty for neglect, and how applied

Sec. 23. That if, on view, the inspector or his deputy who shall be called upon for that purpose, shall find that any of the barrels, firkins or kegs, heretofore mentioned, shall not be sufficient, and made in conformity to the provisions of this act, such inspector or his deputy, shall desist from any further inspection of the contents, and judge the same unmerchantable, and thereupon condemn and brand, or mark the said barrel, or other cask, accordingly: *Inspector and- ing barrels, &c. not made as directed, shall brand them as unmerchantable* *Provided* That nothing in this section contained, shall be so construed as to prevent a repacking of such articles in proper and sufficient barrels and casks; and when done, may be inspected and passed, if found good and merchantable, as in other cases under this act.

Sec. 24. That if any inspector, or deputy inspector, shall fail or neglect to do the duties annexed to his office, or shall be convicted of partiality, or of having acted contrary to the directions of this act; he shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars, with costs of suit, to be recovered before any court having jurisdiction thereof, for the use of the county; and shall moreover be liable to the party injured for damages. *Penalty for neglect of duty by inspector*

Sec. 25. That the courts of common pleas of their respective counties aforesaid, shall have full power and authority, on complaint and sufficient cause shown, to remove from office any inspector appointed under this act, or to fill any vacancy that may occur by death, removal or otherwise. *Court may remove inspectors, and fill vacancies*

Sec. 26. That if any person or persons shall counterfeit the aforesaid brands or marks, or either of them, or shall impress such counterfeit brands or marks on any cask, barrel, firkin, or keg, containing articles subject to inspection by this act; he, she, or they so offending, and being legally convicted thereof, shall be deemed guilty of forgery, and dealt with accordingly. *Person counterfeiting brands, deemed guilty of forgery*

Sec. 27. That the inspector, in all cases where he may have condemned any of the articles in this act enumerated, shall forthwith, on demand, deliver to the owner or owners thereof, his or their agent, a certificate, distinctly setting forth the time and place and cause of such condemnation; and when the articles in this act enumerated, have been inspected and declared of good quality and merchantable, by any inspector, he shall, on demand as aforesaid, deliver a certificate thereof, for the benefit of the owner or owners of such articles. *Inspectors to give certificates*

Sec. 28. That the inspectors to be appointed under this act, shall receive the following fees for their services, namely: *Fees of inspectors* For each barrel of wheat flour or rye flour, three cents; for each barrel of buckwheat meal, two cents, or domestic spirits, five cents; for every barrel of biscuit, six cents; for every firkin or keg of butter or lard, three cents; for packing and inspecting every barrel of pork or beef, twenty cents; for every half barrel, fourteen cents; for packing, examining and inspecting every barrel of fish, twenty cents; and for inspecting every barrel of pot or pearl ashes, twelve cents.

INCORPORATION OF

Sec. 29. That if any inspector or deputy inspector, shall demand or receive any greater sum than is provided in the foregoing section, or shall directly or indirectly purchase any article by him inspected, and condemned as unfit for exportation, or in any wise unsaleable or unmerchantable; he shall forfeit and pay, for every such offence, a sum not exceeding fifty dollars, together with costs of suit; to be recovered before any court having jurisdiction thereof, to, and for the use of the common schools in such county.

Penalty for demanding illegal fees, or buying articles by them condemned

Act repealed

Sec. 30. That an act, entitled "An act for the inspection of certain articles therein enumerated," passed February twenty-first, eighteen hundred and twenty-four, be, and the same is hereby repealed.

Power to appoint city inspectors not affected

Sec. 31. That this act shall not in any manner affect or take away the power to appoint inspectors, heretofore granted to any incorporated town or city.

This act shall take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 9, 1831.

AN ACT to provide for the incorporation of Townships.

Townships made bodies politic and corporate

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio.* That the townships of the several counties within this State, which have been, or that shall hereafter be, lawfully laid off and designated, be, and they are hereby formed into bodies politic and corporate, for the purpose of exercising and enjoying the rights and privileges hereinafter enumerated; and they shall be capable of suing and being sued, pleading and being impleaded, in any court of law or equity in this State: *Provided,* That no township shall be laid off having less contents than twenty two square miles, unless such township includes a town corporate.

County commissioners may erect new, or alter old

Sec. 2. That whenever it shall be made appear to the board of commissioners of the proper county, that it is necessary to erect any new township or to alter the boundaries of any township heretofore laid off, the board may set off or alter the same, and shall cause the boundaries to be recorded in a book to be provided and kept for that purpose, and give to such township such appropriate name as the board of commissioners may think proper: *Provided,* That no two townships in any one county shall be set off and incorporated by the same name.

Sec. 3. That the county commissioners of any county in this

State, may, if they judge necessary, for good cause shown, and on petition of a majority of the electors of any incorporated township in such county, alter the name of such township: *Provided*, That thirty days' previous notice of such intended application be given by advertisement at three public places in such township: *Provided also*, That such change shall in no wise affect the right of property, or the internal concerns of such township. Commissioners may alter the name

Sec. 4. That whenever any new township shall be set off, the commissioners shall forthwith give public notice by advertisement in three public places in such township, at least ten days before the time and place of holding an election for township officers; and the electors of such township shall, at such time and place, assemble, and then and there elect township officers; and the officers so elected shall hold their offices until the next annual township election, and until their successors are elected and qualified. Elections in new townships

Sec. 5. That on the first Monday of April, annually, the electors in each and every township shall assemble at such place, in their respective townships, as may be appointed by the trustees thereof, (or by the advertisement of the commissioners in case of newly set off townships) for the purpose of electing their township officers; and the electors when so assembled, to the number of ten or more, between the hours of eight and eleven before noon, shall proceed to choose, viva voce, three persons having the qualifications of electors, judges of the election, and two persons, having like qualifications, to serve as clerks: but in townships, for which township officers had been chosen for the preceding year, the trustees shall serve as judges, and the clerk, and such other person as the judges may appoint, shall serve as clerks of the election then to be holden; and if either of the trustees or clerk shall fail to attend, the place of such trustees or clerk shall be filled by the electors, viva voce, as aforesaid. Annual township elections, when to be holden and how conducted

Sec. 6. That previous to their receiving any votes, the judges and clerks, except they be the trustees or clerk of the township, shall severally take an oath or affirmation, faithfully to discharge the duties of their respective offices, in the form following: "You, A. B., do solemnly swear (or affirm) that you will perform the duties of a judge or clerk of this election, (as the case may be) according to law, and the best of your abilities; and that you will endeavor to prevent any fraud, deceit or abuse whatever, in conducting the same:" which oath or affirmation, the judges and clerks are hereby empowered to administer to each other. Oath of the judges and clerks of the election

Sec. 7. That after the judges and clerks have been qualified as aforesaid, the electors shall proceed to the election of one township clerk, three trustees, two overseers of the poor, three fence viewers, one township treasurer, and such number of constables and supervisors of highways as may be directed. What officers to be elected

by the trustees: and the judges and clerks, in discharging their duties in said election, shall be governed in all respects by the act regulating elections; except that it shall not be necessary to send a poll book to the clerk of the court of common pleas of the proper county.

Sec. 8. That the officers so elected shall, within ten days after their election, take an oath or affirmation, before a person authorized to administer the same, faithfully and impartially to discharge the duties of their respective offices; and when so elected and qualified, shall continue in office one year, and until their successors shall be chosen and qualified.

Sec. 9 That every constable, within ten days after his election or appointment, and before he enters on the duties of his office, shall give bond to the State of Ohio, in any sum not exceeding two thousand dollars, nor less than five hundred dollars, with one or more sureties resident in the proper township, such as the trustees thereof shall approve, conditioned for the faithful and diligent discharge of the duties of his office; and the township clerk shall make an entry of such bond, and file the same in his office.

Sec. 10. That it shall be the duty of the township clerk to keep a fair and accurate record of the proceedings of the trustees at all the township meetings; to make out, within two days after the election of township officers, a list of all officers thus elected, stating the offices to which they are respectively chosen; and deliver the same to a constable of the township, requiring him forthwith to summon such officers to appear before a justice of the peace of the proper township, or before such clerk, within ten days from the day of election, to take such oath or affirmation as may by law be required; which oath or affirmation, the said township clerk is hereby authorized to administer, and required to make record thereof.

Sec. 11. That if any of the township officers shall take the oath of office before a justice of the peace, such justice shall return a certificate thereof to the township clerk, to be recorded as aforesaid; the township clerk shall likewise record, in a book provided by him for that purpose, all such private roads and cartways as may be established by the trustees, and also the ear marks of cattle, sheep and hogs, used by the owner or owners, and such other marks and brands as any person may wish to have recorded in said township book; but he shall not record the same marks to two different persons.

Sec. 12. That said clerk shall be entitled to receive of the person employing him as aforesaid, the sum of twenty-five cents for every such entry of marks or brands; of which entry he shall, if required, deliver a certified copy to the owner: for recording roads and cartways, said clerk shall be entitled to receive the sum of twelve and a half cents, for every sheet of one hundred words; to be paid by the person at whose request the said record is to be made.

Sec. 13. That it shall be the further duty of the township clerk, immediately after the township officers shall have made their annual settlement of accounts, to make out and enter in the record book of the township, an account of all the receipts and expenditures of the township for the preceding year, stating for what the money was received and how expended; a copy of which account he shall set up at the place of holding the township election, on the first Monday of April annually: for making out his account as above required, and also for keeping a record of their proceedings at their several township meetings, and attending such suits as may be instituted in favor of the township, and for any other township business they may require of him to perform, the trustees shall allow said clerk a reasonable compensation, to be paid by the township treasurer out of the funds of the township, on the order of said trustees, attested by the clerk as in other cases.

Clerk to set up an exhibit of receipts and expenditures of township at place of holding elections

His compensation

Sec. 14. That it shall be the duty of the trustees in each township, at their meeting on the first Monday in March annually, to divide their respective townships into road districts, where the same has not been done, and to make any alteration which they may think proper in those which were previously laid out, and give notice of the number of supervisors and constables to be chosen at the annual township election; one of which supervisors shall be chosen in each road district; and a majority shall be a quorum to do business at all meetings of the trustees.

Trustees to divide township into road districts &c.

Sec. 15. That the trustees shall settle the accounts of the supervisors of highways, the township treasurer and the overseers of the poor, and examine and settle all demands and accounts against the township; for which purpose the said trustees, supervisors, treasurer, overseers of the poor and township clerk, shall meet on the first Monday of March annually, at the place of holding the township meeting: and the township clerk shall make an entry and true statement of all accounts allowed and adjusted by the trustees, in a book to be provided for that purpose: and for every demand against the township allowed by the trustees, the creditors shall be entitled to receive from said trustees an order on the township treasurer for the full amount thereof, payable on demand.

Township officers to meet annually for settlement, and where

Trustees to issue orders on the treasurer

Sec. 16. That at least twenty days before the annual township meeting, the trustees shall issue their warrant to a constable of the township, directing him to notify the electors of such township to assemble at the time and place appointed for their annual meeting; and said warrants shall enumerate the officers to be chosen at such meeting, and the district in which they are to reside and act; and on application of two or more freeholders of the township for that purpose, said trustees shall insert in said warrant such other business, matter or thing, as may be proposed to be submitted to said township meeting.

Duty of trustees in giving notice of annual township election.

Duty of constable in giving such notice

Sec. 17. That the constable who shall receive such warrant, shall notify the electors of such township, by setting up copies of such warrant in three public places in said township, at least ten days before the meeting of such electors: *Provided, however,* That in cases where the office of one or more of the trustees is vacant, the township clerk, together with the trustee or trustees in office, shall issue the warrant aforesaid to the constable.

Provide

Penalty for refusing to serve in township office

Sec. 18. That any person elected or appointed to any office under this act, who shall neglect or refuse to serve therein, shall forfeit and pay, to and for the use of the township, wherein he may reside at the time of such election, the sum of two dollars, to be recovered by an action of debt before any justice of the peace of said township; and the township clerk shall, in the name of said township, demand, receive or sue for, such forfeiture, and pay over the same when collected, to the township treasurer: *Provided,* That no person shall be compelled to serve in any township office two years in succession: *Provided,* That the trustees shall exonerate and discharge every person elected to any office in any township as aforesaid, from the obligation of serving therein, if such person shall, within ten days after his election, show to their satisfaction that he ought not to serve in said office.

Provide

Township treasurer to give bond and security

Sec. 19. That each and every person elected and qualified for the office of township treasurer, shall, previous to entering on the duties of his office, give bond with security to the trustees of such township, and their successors in office, in such sum as the trustees may deem proper, conditioned for the faithful receiving and paying over all moneys which may come into his hands for the use of the township; which bond shall be lodged with the clerk of the township: and if the said bond shall become forfeited, the township clerk, by order of the trustees, is hereby authorized to sue for and collect the same for the use of the township, or any other person or party entitled to the same.

Trustees may fill vacancies by appointment

Sec. 20. That when by reason of non acceptance, death or removal, of any person chosen to any office in any township, at the annual meeting as aforesaid, or in case where there is a vacancy, the trustees shall appoint a person having the qualifications of an elector, to fill such vacancy; and the person thus appointed shall take the same oath, and be liable to the same penalty, as though he had been chosen at the annual meeting.

When no officers are chosen at annual election, trustees shall appoint

Sec. 21. That in case there should not, at any annual meeting under this act, be a sufficient number of electors assembled for opening the election, between the hours of eight in the morning and four in the afternoon, so that no township officers can be chosen by the electors, the trustees shall appoint all township officers in this law enumerated; and the township officers thus appointed, shall take the same oaths, and be liable

To the same penalties, as though they had been elected at the annual meeting.

Sec. 22. That each trustee, clerk and supervisor of roads and highways, shall be entitled to receive seventy-five cents for every day he or they may be necessarily employed in the discharge of their respective duties; and the trustees shall allow the constable a reasonable compensation for advertising the time of holding township elections, and notifying the several township officers of their election, to be paid out of the township treasury on the order of the trustees, attested by the clerk: *Provided*, That supervisors of roads and highways shall not be allowed any compensation for the two days that they are required by law to labor on the road.

Fee of trustee, clerk and supervisors

Provide as to supervisors

Sec. 23. That each township treasurer shall be allowed and may retain three per cent. of all moneys paid into the township treasury, for receiving, safe keeping and paying over the same to the order of the trustees; and all township officers shall deliver over to their successors in office, all books, papers and obligations, belonging to their respective offices, or deposited with them under this act, as officers of the township: and if any person who has been a township officer, shall refuse to deliver over as aforesaid, any law books or papers the property of the township, he or they so offending shall, on conviction thereof before any justice of the peace, be fined in any sum not less than five nor more than fifty dollars, for the use of the township.

Treasurer's per cent.

Township officers to deliver papers, etc., to successors

Penalty for refusing

Sec. 24. That the trustees of each and every township in this State, shall have power to determine on and fix the place of holding elections within their township; and they shall give previous notice, as in the case of township meeting: the trustees at every election or township meeting, shall have power to cause any and every disorderly person to be removed, and if necessary, confined until the close of such election or meeting; and every constable present shall obey their orders and directions, for the purpose of preserving order and regularity at such meeting.

Trustees to designate the place of holding elections

May preserve order at elections, etc.

Sec. 25. That whenever the treasurer of any township shall have received any money from the county treasury for road purposes in such township, he shall notify the trustees of such township of the same, who shall cause the money so received to be appropriated to building bridges, or repairing the public roads within their township, by advertising and selling to the lowest bidder, (if in the opinion of the trustees such bidder be competent to perform the same,) such part or parts of any road as aforesaid as they may deem expedient, equal to the amount of money to be appropriated as aforesaid; and wherever such labor shall be performed agreeably to the contract or conditions of the sale, the trustees, or any two of them, shall draw an order on the treasurer of the township, in favor of the person or persons who have performed such labor, for

Duty of trustees in expending money arising from road tax

the amount due for the same; which order shall be paid by the township treasurer on demand.

They may purchase ploughs and scrapers for the use of the township, to be put under care of supervisors

Sec. 26. That the township trustees are hereby authorized to purchase a sufficient number of ploughs and scrapers for the use of such township, and the same shall be used exclusively for that purpose; and the cost or expense thereof shall be paid out of any moneys in the township treasury, on the order of the trustees: and it shall be the duty of the trustees to cause the ploughs and scrapers so purchased to be put in the possession of some supervisor or supervisors, who shall take care of and preserve the same when they are not in use; and if there shall not be sufficient money in any township treasury to purchase a suitable number of ploughs and scrapers, the trustees may cause the same to be procured by the application of any labor or tax for road purposes, which may be due within such township, to the purchaser of the same.

Trustees may be fined for neglect of duty

Sec. 27. That each and every trustee of any township in this State, who shall refuse or neglect to do and perform all and singular the duties enjoined on him or them by this act, he or they shall be fined in any sum not exceeding fifty, nor less than five dollars; to be recovered before any justice of the peace of the county by any person suing for the same, and appropriated as other fines under this act: *Provided*, That if any such trustee shall conceive himself aggrieved by the judgment of such justice, he shall have the same right of appealing as is given in civil suits or cases, and under similar restrictions.

They may appeal

Acts repealed

Repealed

Sec. 28. That the "Act for the incorporation of townships," passed February twenty fifth, eighteen hundred and twenty-four; "An act amendatory thereto," passed December twenty-third, eighteen hundred and twenty-five; and all other acts and parts of acts coming within the purview of this act; be, and the same are hereby repealed: *Provided*, That all persons holding township offices at the time this act takes effect, shall continue to hold their respective offices for the same length of time as though said acts were not repealed; and the repeal of said acts shall not affect any obligation or liability incurred under their provisions.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives
SAMUEL R. MILLER,
Speaker of the Senate

March 5, 1831.

AN ACT to incorporate the original surveyed Townships.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That so soon as there are twenty electors in any original

surveyed township of five or six miles square, or fractional township, wherein there are either the reserved sections twenty-nine, or sixteen; or where said section sixteen has been disposed of by Congress, and any other section granted in lieu thereof, whether such other section be situate within or without said original township; and in all other fractional townships, which, by law, are entitled to a section or part of a section, for school purposes: the said electors are hereby authorized to elect three trustees and one treasurer, for the purpose of taking into their care the sections above described; and who shall be a body corporate, capable of suing and being sued: *Provided*, That no person residing on, or holding a lease on, any of the before described sections, shall be eligible to the office of trustee or treasurer as aforesaid.

Trustees and treasurer to be elected. and body corporate

Who shall not be eligible

Sec. 2. That when the inhabitants of any surveyed or fractional township, shall make it appear to the satisfaction of the commissioners of the county, that there are twenty electors inhabiting such township, the commissioners shall cause a written notice to be set up in three of the most public places in the township, requiring an election to be held therein, for the purpose of electing three trustees and one treasurer, to perform all the duties pointed out by this act, giving fifteen days' notice of the time and place of holding such election; which shall be held as near the center of the township as circumstances will admit of: and the election shall be conducted conformably to the provisions of the act, entitled "An act for the incorporation of townships;" and the trustees and treasurer shall each of them take an oath or affirmation, before any justice of the peace, to discharge with fidelity the duties of their respective offices: and, when thus organized, the trustees shall appoint a clerk, who may, or who may not, be one of their own body: and said clerk shall, after being duly sworn to discharge with fidelity the duties of his office, keep a fair and accurate record of the proceedings of the board, in a book provided for that purpose.

Commissioners to give notice of election, when and how

Trustees and treasurer to be sworn

Trustees to appoint a clerk

Sec. 3. That the trustees and treasurer shall hold their offices three years, and until their successors are chosen and qualified; and, at least fifteen days previous to each triennial election, shall notify the electors of their respective townships of the time and place of holding each succeeding election: but in case the trustees refuse or neglect to give such notice, it shall then become the duty of any elector inhabiting such township, at any time thereafter, to advertise an election therein, for the purpose aforesaid; which notice shall be given in the same manner, and the elections conducted under the same regulations, as in the preceding section of this act.

Trustees and treasurer to continue in office, three years. To give notice of election

Sec. 4. That when any vacancy shall happen in the office of trustee or treasurer, the trustees shall fill such vacancy: and the person thus chosen shall continue in office until the next triennial election, and until their successors are chosen and qualified.

Trustees to fill vacancy

To divide sections into lots, and grant leases

Sec. 5. That the trustees, when either of the said sections may require to be divided into lots, shall employ a surveyor to assist them, and lay out such section or sections into lots of not less than eighty acres, nor more than one quarter of a section; and the said trustees shall lease out said section or sections, (except such as may be provided for by any special act,) after giving at least thirty days' notice, by advertisement set up in four of the most public places in the township, mentioning the time and place where proposals shall be received, and when they will meet to execute the lease; always giving a preference to those who, in their opinion, make the most advantageous proposals.

To lease but one lot to one person, and no waste to be committed

Sec. 6. That the trustees shall not lease more than one lot to any one person: and the lessee shall be bound not to waste or destroy the sugar trees or other timber, further than is necessary for improving thereon, and to make such improvements as the trustees may think proper; and the trustees shall examine the premises, and see that they are left in good repair, and that the lease has been punctually complied with: and shall proceed again to give leases, on the plan pointed out by the fifth section of this act; always giving preference to the original lessee: *Provided*, He shall have complied with his former lease.

Term for which leases may be granted

Sec. 7. That all unimproved lots of school lands may be leased for any term not exceeding seven years, for making such improvements on the same as the trustees may think advisable: and all improved lots may be leased for any term not exceeding three years; the rent of which shall be paid in money, on the first Monday of December, annually: *Provided*, That no lease shall be granted for a longer term than one year, for any school lands, where a vote of the township has been taken in favor of a sale of such school lands.

Rent, when to be paid

How applied

Sec. 8. That the trustees of each surveyed township or fractional township aforesaid, shall apply the rents and profits arising from section numbered sixteen, to the special purpose for which it was intended; which rents shall be collected by the treasurer, who shall not pay out any money so received, but upon the order of the trustees: and the treasurer shall keep a book with fair and accurate entries of all moneys received, together with a list of disbursements, and carefully file the vouchers relating thereto: which books and papers shall, at all times, be subject to the inspection of the trustees.

A counts, how kept

Dividends, how made and paid over

Sec. 9. That it shall be the duty of the trustees of every original surveyed township, or fractional township, where there is any money arising from rents of school lands, belonging to such township, to meet, at least once in each year, and oftener if they shall deem it necessary, at such time and place as they may agree upon, within the township, and make a dividend of all such money among the several school districts or parts of districts, in proportion to the number of youth in each district or part of district, above the age of four, and under twenty-one years: which dividend shall, by the treasurers of such original surveyed township,

on demand, be paid over to the treasurers of the several school districts, or parts of districts, and take their receipts therefor.

Sec. 10. That every surveyed township or fractional township aforesaid, in this State, that has a county line running through the same, shall be considered, as it respects sections sixteen and twenty nine, in the same situation as though no such interference had taken place: any suit or action that may take place between the trustees, in their corporate capacity, and individuals or bodies corporate, shall be tried and determined in the county where the reserved section lies; and the officer appointed to serve process in such case, shall have full power to go any where throughout the township, in execution of his official duties, in the same manner as though no such division line had ever existed.

When county line runs through township, how proceedings shall be had

Sec. 11. That the trustees aforesaid shall lease out section or fractional section twenty nine, granted for religious purposes, within the Ohio Company's and John Cleves Symmes's purchase, (except such as have been heretofore leased, or are provided for by special acts,) in lots of not less than eighty acres, nor more than one quarter section, for the term of ninety-nine years, renewable forever, to be valued by three disinterested freeholders of the county, previous to its being leased; which valuation shall in no case be less than one dollar per acre: and all ministerial lands, leased as aforesaid, shall be subject to a revaluation every fifteen years, without taking into view the improvements thereon, (except at the first valuation;) and six per cent. on the valuation or revaluation of all ministerial lands, shall be the rent required.

Section twenty-nine, how leased

Sec. 12. That all rents arising from any school or ministerial lands, as aforesaid, shall be paid by the lessee or lessees, to the treasurer, as they may become due; and on failure of the payment, or for non-compliance with the conditions of the lease, the treasurer shall, when so directed by the trustees, bring a suit in the name of the trustees, before any court having competent jurisdiction: and on final process, if goods and chattels cannot be found, whereby distress can be made, or if mesne process cannot be served, upon the return of the same, the trustees are thereupon authorized to re-enter upon the land of the delinquent or delinquents, and sell at public vendue his or their right and title in the said lease or leases, to satisfy such rent, damages and costs; in which case the trustees shall give twenty days' previous notice of the time and place when the said lease or leases will be sold, by advertising the same in three public places, or by advertisement inserted in some newspaper published within the county, subjecting the purchaser or purchasers to the conditions contained in the lease or leases of the delinquent or delinquents: and in case the said lease or leases sell for more than the rent, damages and costs, the surplus shall be paid over to the delinquent or delinquents.

Suit for rents how brought and conducted

Trustees may re-enter and sell lease, when and how

Sec. 13. That each and every denomination of religious so-

Dividends to religious societies, how made and appropriated

societies, after giving themselves a name, shall appoint an agent, who shall produce to the trustees a certificate containing a list of their names and numbers, specifying that they are citizens of said township; and the agent shall pay over an equal dividend of the rents, within three months after the same shall have been received, to be appropriated to the support of religion, at the discretion of each society: *Provided*, That all members above the age of fifteen years, shall be entitled to have their names enrolled by any society.

When there are not 20 electors, trustees of civil township to act

Sec. 14. That whenever number sixteen or twenty-nine shall be in a township where there are not twenty electors, the trustees of the civil township in which surveyed townships may be situate, may lease said section or sections, and receive the rents arising therefrom, for the use of the inhabitants of such surveyed township, agreeable to the provisions of this act.

Trustees to divide proceeds of section twenty-nine, on the first Monday of January annually

Sec. 15. That in such township or fractional township, wherein section twenty-nine is reserved, it shall be the duty of the trustees to meet on the first Monday of January, annually, at the most convenient place nearest the center of such township or fractional township, and there make a dividend of the rents to each religious society, agreeably to the thirteenth section of this act; and, in making such dividend, each society shall be entitled to receive a just proportion of the money received by the treasurer.

Re-appraisement of ministerial lands, how made

Sec. 16. That whenever, and so often, as it may become necessary, pursuant to the laws authorizing the leasing of lands set apart for the support of the gospel, to re-appraise any lot or tract of land set apart as aforesaid, which may have been leased for a term of years, it shall be lawful, and is hereby made the duty of the trustees of any original surveyed township, in which any such tract of land may be situated, to appoint three disinterested freeholders, not residing in such township, whose duty it shall be to appraise such tract of land, on actual view thereof, without reference to the improvements thereon, and, within five days thereafter, to make out a report of such appraisement, and deliver the same to the clerk of the township in which such lands may be situated; and said appraisers shall receive for their compensation, one dollar each, per day, necessarily employed as aforesaid.

Appraisers' fees

Acts repealed

Sec. 17. That an act to incorporate the original surveyed townships, passed February twenty-sixth, eighteen hundred and twenty four; an act to amend an act, entitled "An act to incorporate the original surveyed townships," passed February eighth, eighteen hundred and twenty-six; an act to provide for granting leases of certain school lands, passed February eleventh, eighteen hundred and twenty eight; and all other acts and parts of acts, coming under the purview of this act; be, and the same are hereby repealed: *Provided*, That the repeal of said acts shall in no wise impair the validity of any lease or

Leasing clause

Contract made under any of their provisions; but the same proceedings shall be had in relation to any such lease or contract, as if said acts were not repealed.

This act to take effect and be in force from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 14, 1891.

AN ACT establishing Seats of Justice.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That for each new county heretofore established, or which may be established during the present, or any future session of the Legislature, ^{Three commissioners to be appointed} three commissioners shall be appointed by a resolution of both branches of the Legislature, whose duty it shall be to examine and determine what part of said county, so established, is the most eligible for the establishment of a seat of justice within the said county; and it shall be the duty of the secretary of State immediately to notify the persons of their several appointments.

Sec. 2. That no person residing within the county so established, or holding any real property therein, or who has not arrived to the age of twenty five years, and no person who has not been a resident within the State one year, shall be eligible as a commissioner. ^{Who shall be eligible}

Sec. 3. That the commissioners, or any two of them, within sixty days after the notification of their appointment, shall assemble at some convenient place in that county, where the seat of justice is to be established, giving twenty days' notice, published in some newspaper printed or circulated in said county, or by having the same posted up in three of the most public places therein, notifying the inhabitants thereof of the time, place and purport of their meeting; and the said commissioners, when assembled, after having taken an oath or affirmation, before a magistrate or some other person legally authorized to administer oaths, to faithfully discharge the duties assigned them by this act, shall proceed to examine and select the most proper place as a seat of justice, as near the center of the county as possible, paying regard to the situation, extent of population, and quality of land, together with the convenience and interest of the inhabitants. ^{To assemble in sixty days} ^{Notice} ^{To be sworn}

Sec. 4. That the commissioners, after having agreed upon the place for the seat of justice, shall make report thereof to the next court of common pleas to be held in said county, if the same shall have been organized; but if the county shall ^{To make report to next court of common pleas}

not have been organized, then to the court of common pleas of any county to which such new county, or any part thereof, may be attached for judicial purposes: and if no town has been previously laid off, at the place agreed on by the commissioners, the court shall appoint a director, who, after giving sufficient security for his faithful performance, shall be fully authorized to purchase the land of the proprietor or proprietors for the use of the county; but in no case shall he be authorized to give a greater sum per acre than the price stipulated by the commissioners who selected the site; and proceed to lay off said land into lots, streets and alleys, under such regulations as the court may prescribe: and the said director is hereby further authorized to dispose of the said lots, either at public or private sale, as the court may direct, and to make a legal conveyance of the same, in fee simple, to the purchaser: *Provided always*, That the lands thus purchased and laid off into lots, shall not exceed seven hundred acres.

Director may be appointed
Powers
Proviso
How proceeds of sale shall be applied
Sec. 5. That the first proceeds of the sale of said lots, shall be applied to the payment of the land, and defraying the necessary expenses of laying off the lots; and the residue of the money shall be paid into the county treasury.

Director may be attached for not paying over money
Sec. 6. That if any director appointed by virtue of this act, shall refuse to pay into the county treasury any money that may be in his hands, arising from the sale of lots, on demand of the county treasurer, it shall be the duty of the court of common pleas, on application of the county treasurer, to proceed in a summary manner, on thirty days' notice being given, to order such director to pay over any moneys in his hands; and the court of common pleas is hereby authorized to enforce any order they may make in the premises, by attaching the person of such director, or issuing execution, as in other cases: *Provided*, That said director shall, in all cases, on the payment of any money into the county treasury, in pursuance of this act, take duplicate receipts therefor; one of which he shall deposit with the county auditor of the county, who shall charge the treasurer therewith.

Proviso
If title is bad, another spot may be selected
Sec. 7. That if the land agreed on by the commissioners cannot be purchased at the price limited, or if a good and legal title in fee simple cannot be obtained, the commissioners shall forthwith select the next most eligible place for the seat of justice.

Written in commissioners published
Sec. 8. That if any commissioner shall receive money, or any species of property, as a bribe, either directly or indirectly, in the execution of his office, he shall, on conviction before any court having jurisdiction thereof, forfeit and pay a sum not exceeding one thousand, nor less than three hundred dollars, for the use of the county, together with costs of suit.

Compensation to commissioners
Sec. 9. That each commissioner, appointed for the purpose of establishing seats of justice, shall receive the sum of three dollars for each day he may be employed in discharging the de-

ties required of him by the provisions of this act, to be paid out of the treasury of the county where said proceedings shall be returned, and to which the said new county is attached; the amount of which, with the interest thereon, shall be refunded by the new county so soon as the same shall be organized, unless otherwise provided by law: and each director appointed, shall be paid such compensation as the court of common pleas ^{Director, how paid} of the new county shall allow.

Sec. 10. That it shall be lawful for any of the courts of common pleas within this State, whenever they may deem it necessary, when there shall be a vacancy in the office of director for any town within this State, occasioned either by death, removal, resignation or otherwise, to appoint for the towns in their proper counties a director, from time to time, to fill such vacancy, in the same manner, and under the same regulations, as herein before prescribed. ^{Court common pleas may fill vacancy}

Sec. 11. That the act, entitled "An act establishing seats of justice," passed January eleventh, eighteen hundred and twenty; and the act to amend the act, entitled "An act establishing seats of justice," passed January fifth, eighteen hundred and twenty-two; and the "Act to amend the 'act establishing seats of justice,' passed January twenty-seventh, eighteen hundred and twenty three; be, and the same are hereby repealed. ^{Acts repealed}

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,
Speaker of the Senate.

February 3, 1824.

AN ACT for ascertaining the boundaries of counties.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever it shall appear to the commissioners of any county, that the boundary lines of the county are not sufficiently ascertained, it is hereby made the duty of the commissioners to issue their order to the surveyor of the county, requiring him to ascertain and survey such line or lines. ^{Order to issue by commissioners to surveyor}

Sec. 2. That it shall be the duty of the commissioners of any county, where the county line or lines are to be run, to give notice to the board of commissioners of the county or counties adjacent, declaring their intention of running the line or lines of said county; and said commissioners, receiving such notice, shall, if they think proper, order the county surveyor of such county to proceed and run such lines with the surveyor or surveyors of the adjoining county or counties, at such time and in such manner as shall be fixed upon by the commissioners of said counties. ^{Commissioners to give notice to those of adjoining county}

Surveyor to
make return to
clerk

Sec. 3. That each county surveyor shall forthwith make out a return of such survey to the clerk of his respective county, whose duty it shall be to make record thereof.

Surveyor's com-
pensation :

Sec. 4. That the county surveyors shall receive for their services, done conformable to the directions of this act, such compensation as may be allowed by the commissioners of the county to which each surveyor respectively belongs; to be paid out of the county treasury, on the commissioners' order.

Effect

This act shall take effect and be in force from and after the passage thereof.

MICHAEL BALDWIN,

Speaker of the House of Representatives.

JOSEPH KERR,

Speaker pro tem. of the Senate.

December 29, 1804.

AN ACT providing how money shall be appropriated in counties or districts attached, and for the division of the money remaining in the treasury of the county or counties from which a new county may be laid off.

Money how di-
vided and appro-
priated

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That when any tract or district shall be laid off into a new county, and shall remain, or be attached to, or made a part of an organized county, for the purpose of enjoying county privileges, the tax arising from land and personal property within the organized county, and county or district attached, shall be appropriated in the following manner, to wit: the expenses of the county shall first be paid from the whole tax, except appropriations made for roads, bridges or public buildings within the original organized county; then the remainder of the tax on land and personal property shall be divided according to the quantity of land and personal property within the organized county, and the county or district attached, from which the tax was paid; and the commissioners shall appropriate the proportion or part belonging to the county or district attached within the same, for the purpose of making roads, bridges or public buildings.

New counties to
have money in
treasury accord-
ing to land and
taxable prop-
erty, etc.

Sec. 2. That when any new county shall be laid off and organized, the money which shall remain in the treasury of the county or counties from which the new county was taken, after deducting all just debts and demands which were due or owing at the time of setting off the new county, except such debts as shall have been contracted for public buildings in the old county, shall be divided according to the land and other taxable property within the new county, and the county or counties from which the new county was taken, from which the tax was paid: and the treasurer of the new county is hereby authorized to call on the treasurer or treasurers of the county or counties, from which the new county was taken; and

the treasurer or treasurers are hereby required to pay over the same, according to the proportion before mentioned: *Provided, however,* No moneys donated or given to said county by individuals, for erection of public buildings or other purposes, or moneys received as clear profit, on the sale of county town lots, the property of said old counties, shall be subject to such division, but shall be and remain the property of said old counties.

Sec. 3. That it is hereby made the duty of the commissioners of any new county heretofore laid off, or that may hereafter be laid off and organized, from one or more counties, to call on the commissioners of the county or counties from which such new county was taken, for a settlement of the money which shall remain in the treasury of the said county or counties: and the commissioners of such old county or counties, are hereby ordered and directed, when called on by the commissioners of such new county, to settle with them, within three months thereafter, and give an order on the old county treasury, in favor of the new county treasurer, for the amount of money due such new county, agreeable to the provisions of the second section of this act; and the old county treasurer is hereby ordered and directed to pay the same to the treasurer of such new erected county as aforesaid.

Sec. 4. That if the commissioners of such old county shall refuse or neglect to settle with the commissioners of such new county, and give them an order on their treasurer for the amount as aforesaid, when called on; then, and in that case, it shall be the duty of the court of common pleas of the old county, upon the application of the commissioners of the new county, to proceed in a summary manner, upon notice, to compel the commissioners of such old county to make such settlement, and give such order: and the court of common pleas shall enforce any order they may make in the premises, by attaching the persons of the commissioners of the old county, until such order is complied with; and the costs of the application paid.

Sec. 5. That if there be not money in the treasury of the old county, to pay the before mentioned order when presented, it shall be the duty of the treasurer of said county to pay the order out of the first money received by him for county purposes.

Sec. 6. That the act, entitled "An act, providing how money shall be appropriated, in counties or districts attached, and for the division of the money remaining in the treasury, from which a new county may be laid off," passed December 29th, 1809; and an act to amend the act aforesaid, passed January the 25th, 1819; be, and the same are hereby repealed.

This act to take effect and be in force from and after the first day of June next.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.
ALLEN TRIMBLE,

Speaker of the Senate.

January 11, 1820.

AN ACT prescribing the general duties of the Auditor, Treasurer and Secretary of State.

Auditor to give bond Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the auditor of State, previous to entering on the duties of his office, shall enter into bond, with two or more securities, to be approved by the governor, in the sum of ten thousand dollars, payable to the State of Ohio, conditioned for the faithful discharge of his official duties; and shall deposit said bond in the office of the Secretary of State.

To keep his office at seat of government Sec. 2. That the auditor shall keep his office at the seat of government, and do and perform all the duties appertaining thereto, which are, or may be, required of him by law, or resolution of the General Assembly.

His seal Sec. 3. That the auditor shall keep a seal, with the device of "*The seal of the Auditor for Ohio*;" and all official copies taken from the records or other documents in his office, shall be under said seal, and shall be certified and signed by the auditor.

To audit acc'ts and issue bills on the treasury Sec. 4. That all accounts and claims against the State, which shall be by law directed to be paid out of the treasury of the State, shall be presented to the auditor, who shall examine and adjust the same, and shall issue bills, payable at the State treasury, for the sums which shall be found due from the State; specifying in each bill the date of its issue, and the name of the person to whom payable.

Bills to be indented and numbered Sec. 5. That the bills to be so issued, shall be printed on separate sheets; and each bill shall be indented and numbered; and the number corresponding therewith shall be entered on the part of the sheet from which such bill shall be cut; and all such parts of sheets, containing the corresponding numbers, shall be carefully preserved by the auditor, in his office.

May issue bills for parcels Sec. 6. That when the amount due from the State to any person shall exceed twenty dollars, the auditor, if requested, shall divide the sum due into parcels of not less than ten dollars each; and shall issue bills for the several parcels into which the amount shall be so divided.

Faith of the State pledged for the redemption of bills Sec. 7. That for the redemption of all bills, issued in conformity with the provisions of this act, the faith of this State is hereby pledged.

To make an entry of bills in a book Sec. 8. That the auditor shall enter, in progressive order, in a book or books to be by him provided for that purpose, the number of each bill by him issued; the amount thereof; the date of its issue; and the name of the person to whom issued.

To keep a record of accounts, and file of receipts Sec. 9. That the auditor shall make and preserve in his office, in suitable books, to be procured at the expense of the State, fair and accurate records of all such public accounts, and other documents, as have been, or may be, by law made returnable to his office; and shall keep a file, in progressive order, of all receipts and other vouchers relative to the business of his office.

Sec. 10. That the auditor shall keep a regular account with the treasurer of this State, in suitable books, to be procured as aforesaid, in which he shall charge the treasurer with all moneys by him received, and credit him with all bills by him redeemed and deposited in the office of the auditor.

To keep an account with the Treasurer

Sec. 11. That the auditor shall annually make out an accurate statement of the receipts and disbursements at the treasury for the preceding year, ending on the fifteenth day of November: also, of the unexpended balances (if any there be) of the several appropriations; the amount remaining in the treasury; the amount of bills issued and not redeemed (if any there be): and shall report the same to each branch of the General Assembly, on the third day of its annual session, together with such remarks on the finances of the State, as he shall deem proper for the consideration of the Legislature.

To report annually to the Legislature

Sec. 12. That, whenever required, the auditor shall submit his books, accounts and vouchers, to the inspection of the General Assembly, or any committee thereof, appointed for that purpose.

His books, &c. subject to inspection of Legislature

Sec. 13. That the auditor shall, from time to time, procure from the proper offices all such copies of surveys, evidence of entry, purchase or grant, as will enable him to know what lands may become subject to taxation, the quantity thereof, and the names of the original proprietors.

To procure copies from land offices

Sec. 14. That the auditor shall deliver to any person applying therefor, a certified copy of any survey or other document in his office; and all such copies, certified by the auditor under his official seal, shall be received as legal evidence in all courts and places within this State.

Copies certified by auditor, made evidence

Sec. 15. That the person applying for such copy, shall pay to the auditor twelve and a half cents for each hundred words contained therein, and twenty-five cents for each plat of survey laid down in such copy.

Fee for making copy

Sec. 16. That all money so received by the auditor for certified copies, shall be by him paid into the treasury, for the use of the State.

Money for copies to be paid into the treasury

Sec. 17. That the auditor of State shall transmit to the auditor of each county, on or before the first day of March annually, a list of all lands within such county which shall have become subject to taxation within the preceding year, agreeably to the information by him received from the several land offices.

To transmit list of lands newly subject to taxation, to county auditors

Sec. 18. That the auditor of State shall annually procure and transmit to the auditor of each county, on or before the first day of May, a durable, well bound blank book, so constructed as to receive a record of the duplicate of taxes levied in such county for that year; and shall cause the name of the county, and the year, to be lettered or labeled thereon.

To transmit book for copy of duplicate to county auditors

Sec. 19. That the auditor of State shall, from time to time, prepare and transmit to the auditor of each county such general forms and instructions, in conformity with the laws in

To furnish county auditors with forms and instructions

force, as in his opinion may be necessary to secure uniformity in assessing, charging, collecting and accounting for the public revenue; and the county auditors, assessors and treasurers shall pursue and observe such forms and instructions.

May remit penalty improperly charged, and correct duplicate Sec. 20. That the auditor of State is hereby authorized to remit any penalty for the non-payment of taxes, when satisfied that the same is improperly charged, or that such penalty accrued in consequence of the negligence or error of any officer required to do any duty relative to the levy and collection of such taxes; and may, from time to time, correct all errors which he shall discover in the duplicate of taxes assessed in any county.

To transmit statement of county's proportion of taxes paid into State treasury Sec. 21. That the auditor of State shall annually make out and transmit to the auditor of each county, on or before the first day of May, a statement of the taxes paid into the State treasury during the preceding year, and belonging to such county; and the sums named in such statement may, at any time thereafter, be drawn from the State treasury, by the treasurers of the respective counties.

May appoint a chief clerk Sec. 22. That the auditor of State may appoint a chief clerk, whose appointment shall be evidenced by a certificate thereof, under the official seal of the auditor, and shall continue during the pleasure of the auditor.

Chief clerk to give bond to the auditor Sec. 23. That the chief clerk, previous to entering on the duties of his appointment, shall give bond, with two or more securities, to the acceptance of the auditor, in the penal sum of ten thousand dollars, payable to said auditor, and conditioned for the faithful performance of the duties of his appointment.

May perform the duties of auditor Sec. 24. That in case of the absence or inability of the auditor, the chief clerk shall do and perform the several duties required of the auditor.

Payments out of auditor's contingent fund Sec. 25. That the expense of procuring the books directed by this act to be procured, and the copies of entries, surveys, and other documents from the land offices, and all legal claims presented to the auditor, under the provisions of the act directing the mode of redeeming lands sold for taxes, and all other contingent expenses of his office, shall be paid by the auditor, out of the contingent fund appropriated for the use of said office.

To direct suit against delinquent revenue officers Sec. 26. That if any county treasurer, or other officer concerned in the collection of the State revenue, shall fail to collect, fail to make proper return, fail to make settlement, or fail to pay over all moneys by him received, and belonging to the State, at the time, and in the manner required by law; the auditor of State shall, at the expiration of thirty days next after the expiration of the time within which such duties are by law required to be performed, transmit to the auditor of the proper county a statement of the sum claimed by the State from such delinquent officer, with directions to such county auditor to proceed against such delinquent officer and his securities, in

the manner prescribed by law: *Provided*, That when the Auditor of State shall be satisfied that such default results from some inevitable accident, and not from the negligence of such officer, he may, at his discretion, postpone the instructions for bringing suit for any time not exceeding sixty days. Provide

Sec. 27. That the "Act defining the duties of the Auditor of State," passed February twenty-fourth, eighteen hundred and twenty-four, be, and the same is hereby repealed. Act repealed

TREASURER OF STATE.

Sec. 28. That the treasurer of State shall keep his office at the seat of government; shall have charge of, and safely keep all public moneys which shall be paid into the treasury, and pay out the same as directed by law; and perform all such other duties as now are, or shall hereafter be, required of him by the laws of this State. Treasurer of state to keep his office at the seat of government, and have charge of public moneys

Sec. 29. That previous to entering on the duties of his office, the treasurer shall give bond, with six or more securities, to the acceptance of the governor, in the sum of two hundred and fifty thousand dollars, payable to the State of Ohio, and conditioned for the faithful discharge of his duties as treasurer; and shall take and subscribe an oath or affirmation, faithfully to discharge the duties of his office: which bond, and oath or affirmation, shall be deposited with the secretary of State. His bond and oath

Sec. 30. That the Legislature may, at any time during the continuance in office of the treasurer, require him to give such additional security as they shall deem necessary, for the complete indemnity of the State. Legislature may require additional security

Sec. 31. That the treasurer shall keep an accurate account of the receipts and disbursements at the treasury, in books to be provided for that purpose, at the expense of the State; in which he shall specify the names of the persons from whom received, or to whom paid, on what account the same is received or paid out, and the time of such receipt or payment. Manner of keeping his accounts

Sec. 32. That the treasurer shall receive in payment of public dues, the bills drawn by the auditor of State in conformity with the laws of the State, or redeem the same if there be money in the treasury appropriated for that purpose: and on redeeming such bill, or receiving the same in payment, he shall cause the person presenting such bill to indorse the same; and the treasurer shall write on the face of such bill, "Redeemed;" and shall enter in his books, in separate columns, the number of such bill, its date, amount, the name of the person to whom payable, the date of payment, and the amount of interest, if any, paid thereon. His duty in receiving and redeeming audited bills

Sec. 33. That when any bill shall be presented at the treasury for redemption, and there shall be no funds therein appropriated for that purpose, the treasurer of State shall indorse thereon the date of its presentation, with his signature thereto, from which time such bill shall bear legal interest: and when- Bills not redeemed for want of funds, to be indorsed by treasurer, and bear interest

When they can
be redeemed, no-
tice to be given

ever there shall be funds in the treasury, for the redemption of bills so presented and indorsed, the treasurer shall give notice of the fact, in some newspaper printed at the seat of government; and at the expiration of thirty days after the date of such notice, the interest on such bills shall cease.

To deposit re-
deemed orders
with the auditor
quarterly

Sec. 34. That the treasurer shall, on the first Monday of March, June, September, and the second Monday of November, annually, deposit in the office of the auditor of State all bills by him redeemed or received in payment at the treasury, and take the auditor's receipt therefor.

To report to the
Legislature an-
nually

Sec. 35. That the treasurer shall annually report to each branch of the General Assembly, on the third day of their session, the state of the public accounts and funds, up to the fifteenth day of November preceding; exhibiting the amount by him received, the amount paid out during the preceding year, and the balance remaining in the treasury.

Books and funds
subject to the in-
spection of the
Legislature

Sec. 36. That the treasurer shall, as often as required, submit his books, accounts, and vouchers, and the funds in the treasury, to the inspection of the Legislature, or any committee thereof appointed for that purpose.

Shall not pur-
chase audited bill
or account

Sec. 37. That the treasurer shall, in no case, purchase or receive any bill redeemable at the treasury, or any audited account, at a less value than is expressed therein; nor shall he receive any fee or reward for transacting any business connected with the duties of his office, other than that allowed by law.

Act repealed

Sec. 38. That the act defining the duties of the treasurer of State, passed January 8th, 1824, be, and the same is hereby repealed.

SECRETARY OF STATE.

Secretary of
state to keep his
office at seat of
government, and
be keeper of the
rolls

Sec. 39. That the secretary of State shall keep his office at the seat of government, and shall have charge of, and safely keep, all the laws and resolutions heretofore passed by the Territorial and State Legislatures, and all that shall hereafter be passed by the Legislature of this State; and such other papers and documents as have been, or shall hereafter be, deposited in his office, in conformity with the provisions of the laws of this State.

To superintend
the printing of
the laws

Sec. 40. That the secretary shall make, or cause to be made, accurate copies of all laws and resolutions of the General Assembly, which shall be ordered to be printed, with necessary marginal notes, and deliver such copies to the State printer; and shall superintend the printing thereof, carefully comparing the printed copies with the original laws and resolutions deposited in his office, correcting all errors that may appear in such printed copies; and shall cause to be printed at the end of each volume of the laws so printed, his certificate, that the foregoing acts and resolutions are truly copied from the original rolls in his office; and shall also append a table of contents, referring to the page on which each act commences.

To append his
certificate to the
printed laws

Sec. 41. That all commissions required by law to be issued by the governor, shall be countersigned by the secretary of State; who shall register each commission, specifying the name of the person commissioned, the office conferred, the date and tenure of the commission, in books to be provided and kept for that purpose. To countersign and register commissions

Sec. 42. That the secretary of State shall procure, at the expense of the State, for each organized county, where the same has not already been done, a seal for the supreme court, and also for the court of common pleas, of the same description and device with those heretofore procured for other counties, and shall transmit the same to the clerks of the respective courts. To procure seals for the courts

Sec. 43. That the act defining and regulating the duties of secretary of State, passed February 19th, 1805, be, and the same is hereby repealed. Act repealed

JAMES M. BELL,
Speaker of the House of Representatives.

SAMUEL R. MILLER,
Speaker of the Senate.

January 31, 1831.

AN ACT fixing the salary of the Governor, Secretary of State, Treasurer, Auditor, chief Clerk in the Auditor's office, Supreme judges, and President judges of the court of common pleas.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the several officers hereinafter mentioned, shall be entitled to receive for their respective services, the following sums annually, to commence from their respective appointments, and actually qualifying themselves according to law: To the Governor, one thousand dollars; to the Secretary of State, eight hundred dollars; to the Treasurer of State, eight hundred dollars; to the Auditor of State, one thousand dollars; to the chief Clerk in the Auditor's office, six hundred dollars; to the Supreme judges, each twelve hundred dollars; and to the President judges of the courts of common pleas, each one thousand dollars; to be paid quarterly, to wit: The thirty-first of March, the thirtieth of June, thirtieth of September, and thirty-first of December. Salaries. Govt.; Sec. of State; Treasurer, Auditor, chief Clerk; Judges

Sec. 2. That all fees or compensation allowed by law to the Auditor of State, for any certified copy or copies of surveys or other documents in his office, shall be paid into the State treasury for the use of the State. Fees of Auditor's office to be paid into treasury

Sec. 3. That all acts and parts of acts allowing salaries to any of the officers named in this act, and so much of any acts as allows the treasurer a per centage on the three per cent. fund, be, and the same are hereby repealed. Acts repealed

CONTESTING GOVERNOR'S ELECTION.

Effect

This act to take effect and be in force from and after the passage thereof.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,
Speaker of the Senate.

February 23, 1824.

AN ACT prescribing the manner of contesting elections for Governor.

How contestor
shall proceed

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That after the returns for governor from the several counties within this State, are opened and published by the speaker of the senate, agreeably to the second section of the second article of the constitution, any candidate or elector being desirous of contesting the election of the person declared elected shall, within two days, file a notice of such his intention, with the clerk of the senate, specifying the particular points on which he means to rely.

Two houses to
appoint a day
for determining
contest

Sec. 2. That upon such notice being filed as aforesaid, the two houses shall, by joint resolution, determine on what day they will meet in the representatives' chamber in order to hear and determine the said contest; and thereupon a certified copy of the notice filed by the contestor, shall be served upon the governor elect, or by leaving a copy thereof at his last place of residence, by such person as by resolution shall be appointed, with a notice when he is required to attend in the representatives' chamber, in order to answer the contest.

The evidence
may be written
or oral

Sec. 3. That on the trial of any contested election for governor, the parties to such contest may introduce either written or oral testimony; but no depositions shall be read on such trial, unless the opposite party shall have had reasonable notice of the time and place of taking the same.

Sec. 4. That in conducting any contested election for governor, the following rules shall be observed, to wit:

Rules to be ob-
served in con-
ducting and de-
termining the
contest

1. On the day and at the hour appointed for that purpose, the senate and house of representatives, with their clerks, shall attend in the representatives' chamber.

2. When the speaker of the senate is not the acting governor, he shall preside; but when he is the acting governor, a candidate or contestor, the speaker of the house of representatives shall preside.

3. The parties to the contest shall then be called by the clerk of the house of representatives; and if they answer, their appearance shall be recorded.

4. The contestor shall first introduce his testimony, and then the governor elect shall introduce his; and after the testimony is gone through on both sides, the contestor may, by himself or

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his counsel, open the contest; the governor elect may then proceed, by himself or counsel, to make his defence, and the contestor be heard in reply.

5. After the arguments are thus gone through by the parties, any member of either house shall be at liberty to offer the reasons for the vote he intends to give.

6. When the speaker of the senate presides, the two houses shall be governed in their debates by the standing rules of the senate; and when the speaker of the house of representatives presides, the two houses shall be governed by the standing rules of the house of representatives.

7. The clerk of each house shall keep a regular journal of the proceedings.

8. The manner of taking the decisions shall be by an alphabetical call of the members by the clerk of each house; first the senate, and then the house of representatives; and a majority of all the votes given shall decide: the speaker of the senate, when acting as governor, a candidate or contestor, not being permitted to vote.

9. The two houses met as aforesaid, shall have liberty to adjourn, from time to time, as may be thought necessary.

Sec. 5. That any candidate or elector, being desirous to contest the election of the present governor elect, shall file with the clerk of the senate, within two days after the passage of this law, a specification of the points upon which they intend to rely in the contest; which contest shall be conducted in the same manner as by this act future contests are to be conducted.

This act shall take effect and be in force from and after the passage thereof.

PHILEMON BEECHER,

Speaker of the House of Representatives.

THOMAS KIRKER,

Speaker of the Senate.

December 23, 1807.

AN ACT to regulate the mode of petitioning the Legislature in certain cases.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That previous to any petition being presented to any future Legislature, praying that a new county may be erected in this State, notice of the intention of presenting such petition shall be given, at least thirty days before the ensuing session of the Legislature, by advertising the same in a newspaper printed in each county from which such new county is intended to be taken; or in case no such paper is printed within such county or counties, then notice shall be given by advertisement, to be fixed at the door of the house where courts are held for such county, for the aforesaid period of thirty days: and such notice

Before petition
for new county,
notice must be
given

shall set forth the boundary lines of the new county for which the petitioners do intend to pray.

When petitions
are intended to
be presented
when individual
rights may be af-
fected, notice
must be given

Sec. 2. That in all cases when petitions are intended to be presented to any future Legislature, whereby the particular right or privilege of any individual or individuals, bodies politic or corporate, may be affected or infringed, notice of such intention shall be given in the county or counties where the party or parties interested may reside, in the same manner, and for the same length of time, as provided in the first section of this act: but if the party or parties interested as aforesaid, do not reside within this State, then four months' notice of such intended application shall be given, in at least one of the public papers printed within this State; and the session to which such petition is contemplated to be presented, shall, in all cases, be designated in the notice: and no petition or memorial shall be received by any future Legislature, that has been a longer time in circulation than six months previous to the commencement of the session at which it is presented; nor shall any names of petitioners be written on a separate paper or sheet, and attached to the petition.

When petition is
presented, speak-
er to make inqui-
ry

Sec. 3. That it shall be the duty of the speaker of that branch of the Legislature to which such petition or memorial may be offered, to inquire, at the time such petition or memorial is presented, whether notice thereof has been given agreeably to the requisitions of this act, or whether such petition or memorial has been a longer time in circulation than is allowed by this act; and if satisfactory proof of the aforesaid requisitions is produced, then such petition or memorial shall be received.

For new county,
the petition must
show where seat
of justice is want-
ed

Sec. 4. That all persons hereafter petitioning the Legislature for the erection of a new county, or a review or removal of a seat of justice, within this State, shall, in their petition or petitions, identify the place where they wish the seat of justice to be fixed therein, and shall also present the notice required by the first section of this act, with said petition.

Act repealed

Sec. 5. That the act, entitled "An act to regulate the mode of petitioning the Legislature in certain cases," passed February twenty two, eighteen hundred and twenty, be, and the same is hereby repealed.

JOSEPH RICHARDSON,
Speaker of the House of Representatives.

ALLEN TRIMBLE,

February 21, 1824.

Speaker of the Senate.

AN ACT providing for the safety of stage passengers.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That it shall not be lawful for the driver of any stage

coach or stage wagon, used for the conveyance of passengers Duty of stage driver for hire or reward, to run his horses to pass any other stage vers coach or stage wagon; nor to run his horses to prevent being passed by any other stage coach or wagon, nor run his horses for any other purpose whatever; nor to leave the horses attached to any such stage coach or stage wagon, while passengers remain in the same, without first making his horses fast with a sufficient halter, rope or chain, or by placing the reins in the hands of some other suitable person, to prevent their running: and if any such driver shall offend against the provisions of this act, he shall forfeit and pay, for every such offence, Penalty for neglect of duty a sum not less than five, nor more than twenty dollars; to be recovered before any justice of the peace of any township where the offender may be found, by action of debt, in the name, and for the use, of the person who shall first make complaint, and prosecute with effect, for the same: *Provided*, That such prosecution be commenced within thirty days from the time of committing the offence. Penalty

Sec. 2. That any person prosecuting as aforesaid, may sue Penalty how to be covered out either a warrant or summons, at his election; and if personal service be made, each party shall have a right to a trial forthwith, unless, for good cause shown, the justice shall think proper to grant an adjournment: and upon any judgment which may be rendered thereon, there shall be no stay of execution, but the same shall forthwith issue, and be served and returned as in other cases: *Provided*, That in all cases arising under the provisions of this act, appeals shall be allowed as in other cases. Provide allow for appeals

Sec. 3. That the owner or owners of any such stage coach or stage wagon, shall be jointly and severally liable for the amount of any judgment recovered as aforesaid, against any driver in his or their employ, if such driver shall abscond, or fail to make satisfaction of such execution, within thirty days from the date thereof; to be recovered in an action of debt, founded on such judgment, in the name of the original plaintiff, and prosecuted against any one or more of such owner or owners: upon which stay of execution, and other proceedings, shall be had as in other cases, unless an appeal shall have been perfected in the original cause. Owners liable to pay fine

Sec. 4. That if any owner or owners of any such stage coach or wagon, shall voluntarily pay any judgment rendered against any driver in his or their employ as aforesaid; such owner or owners shall have a right to collect the amount so paid from such driver, with interest thereon, and may also offset the same against any demand which such driver may have against such owner or owners, or any of them. Proceedings against owners

This act to be in force from and after the first day of June next. Owners paying may have recourse on driver

EDWARD KING,
Speaker of the House of Representatives.

A. SHEPHERD,
Speaker of the Senate.

January 30, 1827.

DISTRIBUTION OF

AN ACT for the distribution and safe keeping of the Laws and Journals.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That at each session, the Legislature shall, by joint resolution, appoint the number of copies of the laws and journals, to which each county shall be entitled, to be distributed annually, and preserved, according to the provisions of this act.

Legislature to appoint the number of copies annually

Sec. 2. The secretary of State, at the close of each session of the General Assembly, shall divide the State into convenient districts, and advertise in some newspaper printed in Columbus, that he will receive proposals at his office by a day certain, for carrying the laws and journals to the county seats of the several counties in each district mentioned in the notice.

Secretary to divide the State, and advertise for proposals to distribute

Sec. 3. The person or persons who shall bid the lowest sum, and shall give bond to the State of Ohio, with sufficient security, conditioned for the faithful delivery of the laws and journals at the office of the clerk of the court of common pleas of the proper county, on or before the time stipulated in such agreement, shall have the contract; and for a failure of the performance of the duties required of the contractor by this act, and a breach of any of the conditions of his or their bond, the secretary of State shall commence suit on the bond, and prosecute the same to final judgment.

Lowest bidder giving bond, to be the contractor

For failure, secretary to sue on the bond

Sec. 4. When the laws and journals are ready for distribution, the secretary of State shall deliver to each contractor the number of copies assigned to each county, and which he has contracted to deliver, and shall take his receipt therefor, specifying the number of copies of the laws and journals respectively; and he shall also furnish the contractor with a memorandum of the number of copies of each kind, to be delivered in each county in his district.

Contractor to receive the copies assigned, and receipt therefor

Sec. 5. The contractor, on delivery of the number of copies of laws and journals to the clerk of the court of common pleas in each county, shall take duplicate receipts from the said clerk, which shall specify the number of copies of each kind of laws or journals, and the condition in which the same were delivered; one of which receipts the contractor shall deposit with the county auditor of the proper county, who shall file the same in his office, and the other shall be deposited in the office of the secretary of State.

Contractor delivering copies to clerk, to take duplicate receipts, etc.

Sec. 6. Each member of the General Assembly, each clerk and sergeant-at-arms, each judge of every court of record, each justice of the peace, sheriff, coroner, recorder, Commissioner of Insolvency, prosecuting attorney, (for the use of the grand jury,) county auditor, treasurer, assessor and surveyor, county commissioner, township trustee, and township clerk, shall be entitled to receive one copy of the general laws; and each clerk of the supreme court and common pleas shall be entitled to receive two copies of the general laws, for the use of their offices; and each township clerk one additional copy for the use of the township officers not herein provided for.

What officers entitled to receive copies of the general laws

Sec. 7. The secretary of State shall furnish the governor, ^{Secretary to furnish governor, etc.} for his own use, with one copy, and with such number of copies of the general laws as may be required for exchange with other States; he shall furnish the auditor of State with four, and the treasurer of State with two, and the State librarian with five copies of the general laws.

Sec. 8. When the laws of a general nature, and those of a local nature, are stitched in separate volumes, each member of the General Assembly shall be entitled to one copy of such local laws; and each clerk of the supreme court and court of common pleas, and each county auditor, shall receive one copy of the local laws for the use of their offices respectively; and each township clerk one copy of the local laws, for the use of his township; and each of the trustees of the several wards, and the city clerk of the city of Cincinnati, shall be entitled to one copy; and each presiding officer, in any incorporated town, shall be entitled to one copy. ^{Who entitled to copies of the local laws}

Sec. 9. Each member of the General Assembly, for his own use; and each clerk of the supreme court and court of common pleas, and county auditor, for the use of their offices respectively; and each township clerk, for the use of the inhabitants of his township, shall receive one copy of the journals of the senate and house of representatives: the auditor and treasurer of State, shall each be entitled to one copy; and the State librarian, for the use of the library, five copies of the said journals. ^{Who shall receive copies of the journals}

Sec. 10. The Ohio University, at Athens; the Miami University, at Oxford; Kenyon College, at Gambier; the Franklin College, in Harrison county; the Western Reserve College, in Portage county; the College at Ripley, in Brown county; the Erie Literary Society, in Geauga county; the Zanesville Athenæum; the Ohio Historical and Philosophical Society, at Columbus; and all academies, colleges and universities, which may hereafter be incorporated by law, shall each be entitled to receive one copy of the general laws of this State, one copy of the journals of the senate and house of representatives, and one copy of each annually hereafter. ^{What literary institutions shall be entitled to copies of the laws, etc.}

Sec. 11. The clerk of the court of common pleas in each county shall, on demand, deliver to each member of the General Assembly, judge, justice, sheriff, coroner, recorder, commissioner of insolvents, prosecuting attorney, county auditor, treasurer, assessor, surveyor, and commissioner, and to the president or secretary of either of the literary institutions named in the last section, or which may be hereafter incorporated, the copies of the laws and journals to which they are entitled by this act; and he shall deliver to the township clerks in his county, the number of copies of laws and journals to which the township, and its officers not otherwise provided for, may be entitled: and he shall deliver to each of the trustees of the several wards, and the city clerk of the city of Cincinnati, the ^{Duty of clerks of C. P. in distributing copies to those entitled}

copies to which they may be entitled, respectively; and to each presiding officer in any incorporated town, the copy to which he may be entitled: taking from the respective persons their receipts for the laws and journals delivered, which shall be filed in the county auditor's office, subject to inspection.

Officers except
&c., shall deliver
laws to their suc-
cessors

Sec. 12. Every person entitled, (except members of the General Assembly, clerks and sergeants-at-arms, judges of the courts, and literary institutions,) to a copy or copies of the laws or journals, and who has received the same, shall be bound to deliver over the same to his or their successors in office, and the same shall remain the property of the State of Ohio: and if any person aforesaid, who is bound to deliver over to his successor such laws and journals, shall refuse, on demand, so to do, he shall forfeit and pay any sum not less than five, nor more than fifteen dollars, to be recovered in an action of debt, in the name of the State of Ohio, before any justice of the peace, for the use of the township in which the offence was committed.

Penalty for re-
fusal

Penalty for neg-
lect of duty by
clerk

Sec. 13. Any clerk of the court of common pleas who shall neglect or fail to discharge all or any of the duties required of him by this act, shall forfeit and pay any sum not less than fifteen, nor more than forty dollars; to be recovered in an action of debt, in the name of the State of Ohio, before any justice of the peace, for the use of the county.

Clerk to retain
surplus copies
for officers of
new townships

Sec. 14. Whenever any greater number of copies of the laws and journals shall be forwarded to the clerk of the court of common pleas of any county, than is necessary to supply each person, officer, or institution, according to the provisions of this act, then the clerk aforesaid shall carefully retain the surplus number of the laws and journals in his office, to be delivered to the officers of any new township, which may be hereafter organized in said county.

Surplus copies
not distributed
to be kept by
the secretary

Sec. 15. Whenever any greater number of copies of the laws and journals shall be printed, than may be required for distribution, under the provisions of this law, the surplus copies shall be deposited in the office of the secretary of State, subject to future distribution by law.

Distribution of
school and mili-
tia laws

Sec. 16. Whenever any laws for the regulation of common schools, or the militia, shall be printed and stitched separate from the other laws, the number of copies assigned to each county shall be forwarded to the clerk of the court of common pleas; and the school laws shall be delivered as may be provided by joint resolution of the Legislature; and the militia laws to the officer of the highest grade in commission, residing within said county.

Acts repealed

Sec. 17. The acts, entitled "An act for the distribution and safe keeping of the laws and journals," passed February the twentieth, eighteen hundred and twenty-four; and entitled "An act supplementary to an act, entitled 'An act for the distribution and safe keeping of the laws and journals,'" passed

REPEAL.

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February the twenty-second, 1830; be, and the same are hereby repealed.

JAMES M. BELL,
Speaker of the House of Representatives.
SAMUEL R. MILLER,
Speaker of the Senate.

March 12, 1831.

AN ACT to provide for the repeal of certain acts therein named.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That the "Act declaring the law, in certain cases of actions upon covenants, real, and for other purposes," passed February third, eighteen hundred and twenty-four; and "An act providing for the recovery of money secured by mortgage," passed January second, eighteen hundred and ten; be, and the same are hereby repealed; saving all suits and actions heretofore prosecuted, or now pending, under the provisions of the said acts, in the courts of this State.

This act to take effect from and after the first day of June next.

JAMES M. BELL,
Speaker of the House of Representatives,
SAMUEL R. MILLER,
Speaker of the Senate.

March 12, 1831.

AN ACT providing that the repeal of an act shall not revive a former act.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio,* That whenever a law shall be repealed, which repealed a former law, the former law shall not thereby be revived, unless specially provided for.

ALEXANDER CAMPBELL,
Speaker of the House of Representatives.
THOMAS KIRKER,
Speaker of the Senate.

February 14, 1809.

SECRETARY OF STATE'S OFFICE,
Columbus, Ohio, June 22, 1831.

I certify the foregoing Acts to be correct copies of the original rolls remaining on file in this office.

MOSES H. KIRBY,
Secretary of State.



A LIST

OF THE

ACTS OF A GENERAL NATURE,

REMAINING IN FORCE, NOT REVISED, NOR REPRINTED;

And of all the Acts by which the BANKS in this State, now doing business, were incorporated, and those by which their proceedings are regulated; of all the Acts relating to the OHIO CANALS, not contained in this volume; and of all the Acts authorizing or directing the Sale of the SCHOOL LANDS and SALT RESERVATIONS within this State, and the Distribution of the SCHOOL FUNDS;

WITH REFERENCE TO THE VOLUME AND PAGE WHERE THE SAME MAY BE FOUND.

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* Expected to go into operation.

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AN EXPLANATION OF WORDS AND TERMS,

USED IN THE STATUTES:

REPORTED BY JOINT COMMITTEE, AND ORDERED TO BE PRINTED.

Ab initio, (Latin) from the beginning.

Administrator cum testamento annexo, (Lat.) administrator with the will annexed.

Alias, (Lat.) otherwise.

A second writ issued when the first has not been served.

Ad quod damnum, (Lat.) to what damage.

A writ to inquire of damages sustained by obstructing ways, water courses, &c.

Bona fide, (Lat.) with good faith.

Capias [corpus] ad respondendum, (Lat.) that you take (the body) to answer.

A writ commanding that the body of the defendant be taken to answer the plea of the plaintiff.

Capias ad satisfaciendum, [viz. *corpus*] (Lat.) that you take the body to satisfy the judgment.

A writ commanding that the body of the defendant be taken to satisfy the judgment.

Cepi corpus, (Lat.) I have taken the body.

A return to a writ of *capias*.

Cestui que trust, (French) he for whom the trust is.

The person for whose benefit a trustee holds an estate.

Choses in action, (Fr.) things in action, as notes, bonds, &c.

Certiorari, (Lat.) to be certified.

A writ commanding an inferior, to certify the proceedings in a cause to a superior court.

De bene esse, (Lat.) this phrase cannot be literally translated.

A declaration filed *de bene esse*, avoids the implication that special bail is waived.—(See the statute allowing and regulating writs of attachment.)

Dehors, (Fr.) without.—Out of the subject.

De novo, (Lat.) anew.

Distringas juratores, (Lat.) that you distrain the jurors.

A writ to compel the attendance of jurors, by distraining their estate.

Dedimus potestatem, (Lat.) We have given power.

A commission from a court to some individual. It usually authorizes him to take and transmit testimony.

De bonis testatoris, (Lat.) against the goods of the testator.

Demur,

Demurrer, } (Fr.) to delay.

It is an issue upon matter of law, to be determined by the court, and the proceedings are *delayed* until the matter of law be determined.

Ex post facto, (Lat.) after the perpetration of the act.

Ex parte, (Lat.) on the part of one only.

Ex officio, (Lat.) by virtue of the office.

F. m. covert, [Fr.] a married woman.

Fieri facias, [Lat.] that you cause to be made.

A writ of execution, commanding that the judgment be made of the goods and chattels, lands or tenements of the person against whom it is issued.

Guardian ad litem, [Lat.] guardian during suit.

Habeas corpus, [Lat.] that you have the body.

A writ commanding him who holds the person of another in custody, to bring him before the court or judge.

Habere facias possessionem, [Lat.] that you cause him to have possession.

A writ commanding the sheriff to give possession of lands to him who has recovered in ejectment.

In perpetuam rei memoriam, [Lat.] in perpetual remembrance of the affair.

Instantanter, [Lat.] immediately.

Levari facias, [Lat.] that you cause to be levied.

A writ of execution, by which land is ordered to be levied.

Mesne process, [Fr.] is the writ by which the defendant is brought into court, and is contradistinguished from final process by which judgment is carried into execution.

Mandamus, [Lat.] we command.

A writ issuing from a superior court to some individual, corporation or tribunal, commanding them to perform some act.

Ne exeat, [Lat.] that he go not away.

A writ to restrain an individual from departing the State.

Nihil, [Lat.] nothing.

A return upon a writ of scire facias.

Nihil dicit. } [Lat.] he says nothing.

Nil dicit, }

A name of a form of judgment when no defence is pleaded.

Nihil (or nil) debet, [Lat.] he owes nothing.

The name of a plea to an action of debt.

Non compos mentis, [Lat.] not of sane mind.

Nulla bona, [Lat.] no goods.

A return upon a writ of execution.

Non est inventus, [Lat.] he is not found.

A return upon a writ of capias.

Non est factum, [Lat.] it is not the deed.

A plea to an action of debt, or specially.

Non assumpsit, [Lat.] he did not promise.

A plea of the general issue in the action of assumpsit.

Nudum pactum, } [Lat.] naked agreement.

Nude pact, }

An agreement without consideration.

Nisi, [Lat.] unless.

A rule, or judgment *nisi*, is not absolute, in the first instance; but is to be considered so, unless within a certain time reasons be shown to the contrary.

Non cul. } [Lat.] not guilty.

Nim culpabilis, }
Oyer, [Fr.] to hear.

To crave *oyer*, is to demand the reading of the bond or other writing.

In such cases a copy is usually given.

Oyez! Oyez! [Fr.] Hear ye! hear ye!

Ouster, [Fr.] to turn out, to expel.

Prima Facie, [Lat.] on the first appearance.

Evidence *prima facie*, is that which is conclusive until its effect is obviated by other evidence from the opposite party.

Per capita, [Lat.] by heads.

Succession *per capita*, is when claimants stand related to the ancestor in equal degree, and each claims by his own right.

Per stirpes, [Lat.] by families.

In succession *per stirpes*, the claimants all of one family, succeed to the share only of the person through whom they claim.

Plene administravit, [Lat.] he hath fully administered.

A plea by an administrator.

Pluries, [Lat.] often time.

It is a third writ, when a first and second have been issued without effect.

Parole, [Fr.] speech.

Parole evidence, evidence by word of mouth.

Parole demurrer, [Fr.] a plea to delay.

The *parol* shall demur, that is, the plea shall be delayed.—Originally all proceedings were made by *parol*, at the bar: hence, *parole* came to signify a plea, or the pleadings.—The *parole demurrer* operates to stay proceedings against an infant until he come of full age.

Procedendo, [Lat.] to proceed.

A writ issuing from a superior to an inferior court, commanding them to proceed, in a cause which has been previously removed into the superior court by *habeas corpus*, or otherwise.

Profert in curia, [Lat.] he produces in court.

When a party in a declaration or plea, relies upon a deed, he must do it with a *profert*, that the opposite party may have a copy, and when *profert* is alledged by the pleadings, and until it be actually made, the other party is not bound to answer.

Qui tam, [Lat.] who as well.

The name of an action in which the plaintiff sues as well for himself as for the overseers of the poor, or other body who may be entitled to a share of the sum recovered.

Quo warranto, [Lat.] by what warrant.

A writ requiring the person to whom it is directed, to show by what warrant or authority he claims to perform a particular function.

Quare clausum fregit, [Lat.] wherefore he hath broken the close.

This phrase is applicable to an action of trespass upon land.

Subpoena, [Lat.] under a penalty.

The name of a writ in which a penalty is threatened for disobedience to its requisitions.

Supersedeas, [Lat.] that you supersede.

A writ to stay proceedings at law.

Scire facias, [Lat.] that you cause him to know.

The name of a judicial writ, calling the defendant to show cause why execution should not issue upon, &c.

Scire feci, [Lat.] I have caused him to know.

A return upon a writ of *scire facias*.

Tales, [Lat.] such.

Talesmen, such men.

Tales de circumstantibus, [Lat.] such men from those standing around.

Men who are proper jurors, taken from the bystanders to complete the pannel of the jury.

Testatum, [Lat.] it is testified.

When a *capias* or *feri facias* cannot be served in the county in which it is first issued, a similar writ is sent to some other county, in which writ there is a suggestion that *it is testified* that the person does not reside, or has no property, in the first county; and such writ is called a

Testatum capias, or *Testatum fieri facias*.

Tort, [Fr.] wrong.

Venire facias, [Lat.] that you cause to come.

A writ commanding the proper officer to summon a jury.

Venue, [Fr.] vicinage, neighborhood.

The county in which the action is laid.

Vi et armis, [Lat.] with force and arms.

This phrase is applicable to trespass.

Viva voce, [Lat.] with the living voice.

By word of mouth.

Venditioni exponas, [Lat.] that you expose to sale.

A writ commanding the officer to offer to sale property previously levied by virtue of a former writ of execution.

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